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Employment and Immigration Canada
Emploi et Immigration Canada

IMMIGRATION MANUAL

EXAMINATION AND ENFORCEMENT

ÉGALEMENT DISPONIBLE EN FRANÇAIS SOUS LE TITRE "EXAMEN ET APPLICATION DE LA LOI".

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EXAMEN ET APPLICATION DE LA LOI

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104	Jan. 8/87	DS	121	Aug. 21/87	DS	138	30-3-88	D.S.
105	Jan. 8/87	DS	122	Aug. 21/87	DS	139	30-3-88	D.S.
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107	Jan. 8/87	DS	124	Aug. 21/87	DS	141	30-3-88	D.S.
108	Jan. 8/87	DS	125	Aug. 21/87	DS	142	30-3-88	D.S.
109	Jan. 8/87	DS	126	Oct. 7/87	DS	143	06-7-88	M.M.
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111	Mar. 17/87	DS	128	Oct. 7/87	DS	145	06-7-88	M.M.
112	Mar.17/87	DS	129	30-3-88	D.S.	146	06-7-88	M.M.
113	Mar.17/87	DS	130	30-3-88	D.S.	147	06-7-88	M.M.
114	Aug. 21/87	DS	131	30-3-88	D.S.	148	06-7-88	M.M.
115	Aug. 21/87	DS	132	30-3-88	D.S.	149	06-7-88	M.M.
116	Aug. 21/87	DS	133	30-3-88	D.S.	150	06-7-88	M.M.
117	Aug. 21/87	DS	134	30-3-88	D.S.	151	06-7-88	M.M.
118	Aug. 21/87	DS	135	30-3-88	D.S.	152	03-11-88	M.M.
119	Aug. 21/87	DS	136	30-3-88	D.S.	153	03-11-88	M.M.

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CHAPTER 2

* PORT OF ENTRY CONTROL

AUTHORITY

* Act: 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 18, 19, 20, 22, 23, 24, 25, 37, 89, 90, 91, 103, 103.1, 106, 110, 111, 114.

Regulations: 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 25, 26, 42, 43, 44, 49.

Schedule: II

GENERAL INTENT

2.01 SECTION 12 OF THE ACT

A12 is basic to the scheme of the Immigration Act. This section requires that all persons, including Canadian citizens, who seek to come into Canada must first present themselves to an immigration officer at a port of entry for an examination. This examination is aimed at determining who shall be allowed to come into Canada or who may be granted admission. Notwithstanding A12, it is not intended to unduly delay persons who have a right to or who may come into Canada.

2.02 ROLE OF EXAMINING OFFICER

The role of the examining officer at the port of entry, with respect to the intent of A12, is to:

1) facilitate the movement of those persons who have a right to come into Canada;

2) facilitate the admission of those persons who, having met the requirements, may come into Canada;

3) ensure that those persons who do not have a right to come into or who may not come into Canada are prevented from so doing.

\+ 2.03 DECISION TO DETAIN

1) The two objectives of the Immigration Act (A3(i) & (j)) which form the basis of the detention aspect of the enforcement program, are the need to maintain and protect the health, safety and good order of Canadian society, and the need to promote international order and justice by denying the use of Canadian territory to persons who are liable to engage in criminal activities.

2) Commission officers are, nevertheless, required to exercise judgement when detaining persons whose only known offence has been to enter Canada with no documents or with fraudulent documents. The authority to detain, like other aspects of immigration law, must be exercised with discretion and compassion. The prospect of detaining large numbers of individuals against whom there is no known criminal record is alien to Canadian concepts of humanity and natural justice. For the most part an unidentified individual should be detained only where the officer is reasonably certain the individual can be removed.

2.04 SPARE

GUIDELINES

2.05 SPARE

2.06 WHAT IS AN EXAMINATION?

1) As defined in the Act, an examination is an interview conducted by an immigration officer of a person seeking to come to Canada at a port of entry (A2(1)). It would include the primary inspection, conducted mostly by customs/immigration officers, and the secondary examination, i.e., the referral to another immigration officer for continuation of the examination (A12(3)(a)).

2) An examination begins when a person arrives at a port of entry and informs an immigration officer that he wants to come into Canada.

3) An examination ends when a person is:

a) allowed to come into Canada;

b) refused permission to come into Canada;

c) allowed to withdraw.

2.07 GENERAL PRESUMPTION

1) Burden of Proof

A8(1) clearly establishes that the burden of proving admissibility rests on the person concerned at any stage of examination prior to the granting of permission to come into Canada. After that, the burden of proving removability rests upon the Commission.

2) Presumption A8(2)

Initially, all persons are presumed to be immigrants until they prove otherwise. This provision is essential for the proper examination of persons at ports of entry and gives examining officers the authority to deny admission under A19(1)(h) to an individual who gives evasive or inconclusive answers which create some doubt that he will depart from Canada upon completion of his stay.

3) Persons Seeking Entry as Visitors who Have Previously been Refused as Immigrants

Persons seeking entry as visitors should not automatically be refused admission because they may have previously applied as immigrants. Such a person could be a bona fide visitor. The examining officer must consider what the person's intention is at the time he seeks entry.

4) Persons with Immigration Applications Pending who Wish to Enter as Visitors

Any person who is required to enter Canada for a temporary purpose while his application is being processed, may be allowed entry as a visitor provided the immigration officer at the port of entry is satisfied as to the purpose and validity of the visit, and the person concerned is made aware that he must leave Canada for completion of his application for permanent residence. Again, it is the intention of the person at the time he seeks entry that must be taken into consideration.

5) Persons with Immigrant Visas who do not Intend to Take up Immediate Physical Residence

Immigrant visa holders may appear at ports of entry seeking landed immigrant status but, for some valid reason, do not intend to take up immediate physical residence. In such instances, it may appear that the person's immediate plans are those of a visitor. However, officers must bear in mind that there is no requirement in the Act that actual physical residence be taken immediately upon attaining the legal status of permanent residence. The question of establishing a physical residence and physically remaining and working in Canada should be subordinate to the person's intention.

6) a) Persons Entering as Temporary Workers Under the Special Program for Foreign Domestics

Under the special program for foreign domestics established by the Minister on November 27, 1981, applicants who come forward as temporary workers will, after working for two years as domestics in Canada, be given the opportunity of applying for landing from within the country, and will be processed by Order in Council, provided they meet all the
* requirements of the program, as described in IE 9.33. Therefore, upon arrival at ports of entry, these persons may declare their intention to take advantage of this special program, and eventually apply for landing from within the country.

b) These persons may be admitted to Canada as visitors, subject to the same requirements as other visitors, provided the immigration officer at the port of entry is satisfied as to the purpose and validity of the visit, and that the persons concerned will leave the country upon the expiry of their final work authorization if, at the time of their second assessment by an immigration officer in Canada, they are unable to fulfill all the requirements of the special program and are unsuccessful in their application for permanent residence.

2.08 WHO MUST BE EXAMINED?

1) All persons, including Canadian citizens, who seek to come into Canada must by law (A12(1)) first present themselves to an immigration officer for an examination.

2) Persons who have left Canada for whatever reason but were not granted lawful permission to be in any other country, and subsequently were returned to Canada by force of circumstances, are deemed, by paragraph A12(2), to be seeking to come into Canada and therefore must present themselves for examination (see 2.32 2)).

2.09 PERSONS WHO CANNOT BE PROPERLY EXAMINED

The language of the legislation is purposely broad concerning when an examination may be deferred or a rejection order (IMM 1217) issued. The intent is to avoid citing specific causes as neither the Act nor these guidelines establish all the instances when deferment or rejection might be necessary. The person to be examined could be mentally or physically incapacitated as the result of illness or exhaustion from a long trip. Therefore, deferment or rejection is left to the examining officer's discretion, always bearing in mind that the action is dependent upon the circumstances of the person to be examined (A13(1)).

2.10 COUNSEL AT EXAMINATION

1) The Immigration Act does not provide for counsel to be present at examinations or interviews. Counsel usually includes lawyers, law students and law clerks, M.P.s and M.P.P.s or their representatives, clergy, social workers and relatives. The Commission does not distinguish between legal and non-legal counsel.

2) During an examination, the person concerned is required to answer truthfully all questions (A12(4)). At this point, no decision has been made as to the person's admissibility, no accusations or charges have been levied by the Commission, and no report has been made. The sole purpose of the interview is to gain facts about the person's intent to enter the country.

3) The Charter of Rights grants the right to counsel to people who are arrested or detained. Subjects at examinations are not usually detained or arrested, therefore the Charter does not oblige the Commission to allow a person to have Counsel during an examination. It shall be Commission policy not to permit counsel at examinations.

2.11 MEDICAL EXAMINATION

Guidelines and procedures to be followed at ports of entry for medical examination and medical requirements to be met by immigrants, visitors and persons in possession of or being issued Minister's Permits will be found in IS 8. Officers at ports of entry are reminded that immunization or other medical records are the property of the new arrivals and should remain in their possession.

2.12 ADJOURNMENT OF AN EXAMINATION

A12(3)(a) is mainly intended to cover the referral from the Primary Inspection Line (PIL) to a secondary examination.

However, there may be exceptional situations and circumstances where an adjournment and a deferment become necessary to assure a proper immigration examination. For example, further relevant documents, information or other evidence may be required to determine admissibility; as well, facilities may be

inadequate or personnel resources not already available. In such exceptional circumstances, section 12(3) of the Act, when combined with section 12(1)can be invoked to adjourn the examination and refer the person concerned elsewhere for the conclusion of the examination.

Although the law permits the initiation and adjournment of an examination by an Immigration Officer at one port of entry and the completion by another Immigration Officer in another location, such as an inland CIC, this authority should not be abused and in each case, strong arguments should support the examining officers decision.

2.13 INTENT OF THE DETENTION PROVISIONS - PORT OF ENTRY

1) The most important thing for all officers to do is to read the law closely (particularly A103.1) and become completely familiar with the provisions.

2) The government did NOT enact a provision calling for the detention of persons in possession of fraudulent documents, improperly issued documents, altered documents or without any documents at all. It didn't do so because it realized that millions of persons enter this country every year after nothing more than some simple questioning. It also knew that many persons fleeing persecution cannot obtain proper travel documents. But the Government, nonetheless, has continuing concerns that national security and public safety must not be jeopardized and that Canada should not become a haven for foreign criminals. These concerns were balanced with responsibilities and realities by drafting the new detention authority in a way which rests upon the subjective view of an immigration officer about the person before him or her. The key issue is that the officer has to be satisfied with respect to the person's identity. Lack of proper documentation certainly will figure prominently in the kind of examination which proceeds but it is not, in itself, the ground for detention (see 2.73).

3) There are some realities of our programs which should be at the forefront of every officer's thinking when dealing with improperly documented travellers. First, official travel documents are not the only documents to establish identity (see 2.73). Second, altered documents may very well still reveal the proper identity of an individual. Third, careful professional questioning can establish identity to the questionor's satisfaction even when there is no supporting "official" documentation. It is worth emphasizing that many of the uninvited migrants we deal with are unsophisticated people who can easily and consistently relate details of their family, occupation, background and so on - enough to satisfy a reasonable person as to who they are.

4) A further reality for detention is this: many of the improperly documented migrants will be referred to the Immigration and Refugee Board (IRB) for a full hearing of their claim and many will subsequently be declared to be refugees. Detention of people who are unlikely to be removed from Canada is pointless. Detention of persons with or without documents who, in the judgement of front line officers will not be eligible to make a refugee claim, or who have no credible basis for such a claim, makes a great deal of sense. But immigration officers should make their arguments first on the grounds that a person will present himself for necessary proceedings and

second, if warranted, on the grounds they are not satisfied about identity. Managers must keep in mind that these port of entry cases (i.e., detained ineligible, or without credible basis) are the first priority for removal processing.

5) In summary, our expectations are these:

a) that most detentions will be because of the likelihood of early removal, infrequently for lack of satisfaction about identity;

b) that, in any case of improperly documented arrivals, officers will concern themselves with public safety, security and the movement into Canada of criminals - they will seek detention is suspicious cases;

c) that persons who, in their judgement, will be destined to a full hearing before the IRB will normally be released, usually on some sort of surety;

d) that persons who are likely to be quickly returned to the place from which they came to Canada, will be detained for proceedings;

e) that persons who have restricted mobility and who would find it difficult to avoid detection should be released, notwithstanding the likelihood of early removal.

Examples would be:

i) elderly persons or minors;
ii) family groups;
iii) pregnant women and their accompanying husbands;
iv) persons in ill-health.

6) a) The guidelines above must not be interpreted in any way as compromising the never-changing priority for port of entry examinations. As enunciated at IE 2.02 examining officers must satisfy themselves, to the extent it is reasonable to do so, that arrivals do not fall into the prohibited classes relating to national security, public safety and criminality. It is not the lack of full and proper travel documents that indicates a person may belong to these categories, but rather the quality of responses to questions about identity.

b) Inconsistent answers, refusal to answer questions and conflicting information are reasonable grounds upon which to argue for detention based upon lack of satisfaction about identity, no matter what the state of documentation.

c) This is what is at the heart of the provisions at A103.1, i.e. improper documentation leads an examining officer to delve into the identity of an individual and, if there are indications that identity of an individual is being concealed for some purpose other than migration, detention would be warranted. The number of such cases will probably not be large, but the detention authority is there to assist us in dealing with the few cases which are suspect (see also 2.73).

2.14 COMPLETION OF AN EXAMINATION - NEED FOR TEMPORARY DETENTION
(To be read in conjunction with IE 10.52)

1) a) Although the examination process referred to in A12 does not normally involve detention, as it simply provides a statutory requirement for the examination of persons seeking admission to Canada, there are instances where officers at ports of entry need to detain persons pursuant to provisions of the Immigration Act.

b) Detentions of this kind are considered to be "temporary" as the detainee is usually awaiting transfer to a more secure, formal detention facility inland, or is soon to be released.

c) Officers are, of course, aware that they cannot detain under the provisions of the Immigration Act unless they are of the opinion that the person to be detained is a danger to the public or would not likely appear for further Immigration proceedings. Therefore, a person cannot simply be "held" as an administrative convenience (see also IE 10.40).

2) a) Some ports of entry have secure facilities which are suitable for detentions, but many more do not have appropriate facilities for accommodating detainees.

b) Rather than impose a national instruction which may be unduly restrictive in certain circumstances, Regions should continue to follow local operating procedures which have proven their value over the years. These practices take into consideration local circumstances such as availability of secure facilities, liaison with police agencies, and presence of staff. They are acceptable as long as they also acknowledge legislative constraints and are consistent with accepted standards for the safety and security of officers, detainees, and the general public.

3) a) Handcuffs can be utilized to restrain the detainee if the officer deems it necessary and should only be used when the officer believes the person is otherwise likely to escape or is losing self-control to the point of attempting to inflict injury on himself or others. Officers should exercise good judgement and common sense in contemplating the use of handcuffs.

b) In such limited cases, the person would have a right to counsel and be so informed.

2.15 ALLOWED TO LEAVE CANADA (A20(1)(b) or A23(3)(d))

1) Intent of A20(1)(b) and A23(3)(d)

a) A20(1)(b) confers discretionary authority on an immigration officer to allow a person to leave Canada, rather than submit a report pursuant to A20(1)(a), as soon as the examination is completed and the opinion is formed that the person may be inadmissible.

b) A23(3)(d) confers discretionary authority on a senior immigration officer to allow a person to leave Canada where, upon receipt of an A20(1)(a) report, the decision is upheld that the person may be inadmissible.

c) This discretionary authority cannot be delegated by an immigration officer or a senior immigration officer to another person, nor can either the immigration officer or the senior immigration officer be obliged by another individual to exercise or not to exercise discretion.

d) This provision was built into the Act, not only to give officers proper authority, but also to provide common-sense flexibility in the examination process.

2) Exercise of Discretionary Authority to Offer Voluntary Withdrawal

a) The decision as to whether to offer voluntary withdrawal, rather than take enforcement action, must be made on a case-by-case basis. Generally speaking, a person will be offered the option of voluntary withdrawal under the authority of A20(1)(b) or A23(3)(d) as applicable, unless there is a reason to believe that such action would be inappropriate. These guidelines are not intended as hard and fast rules nor will they cover all situations; however they may serve to assist officers in determining the types of cases where the discretionary authority of A20(1)(b) or A23(3)(d) would or would not be appropriate.

i) Situations Where Voluntary Withdrawal Would be Inappropriate

- where it has been determined that the person concerned may be inadmissible on serious grounds, it may be useful to have their inadmissibility officially recorded in a deportation order.

- where there is reason to believe that the person examined may seek to gain admission to Canada through other ports of entry, following his withdrawal.

- where there are other valid reasons for entering the person concerned in our FOSS system.

ii) Situations Where Voluntary Withdrawal Would be Appropriate

- where there exist humanitarian or other pressing considerations which may suggest that inquiry action would be inappropriate.

- where the request for admission is spontaneous and where no attempt was made to misrepresent the facts in order to gain admission to Canada.

- where there has been no previous contravention of the Act.

b) In those situations where an immigration officer is uncertain as to whether it would be appropriate to offer a person the option of voluntary withdrawal under the authority of A20(1)(b), he should submit a report pursuant to 2.12 for review by a senior immigration officer.

See 2.76 for appropriate procedures.

2.16 GENERAL REQUIREMENTS FOR PERSONS SEEKING TO COME INTO CANADA

1) Subsection 12 (4) of the Act

a) All persons seeking to come into Canada must provide whatever information is required by the examining officer to determine whether or not they shall or may be allowed to come into Canada (see A12(4)).

b) There may be occasions where the examining officer feels that liaison with a post abroad is necessary to obtain information which would assist him in determining a person's admissibility. This may occur where the officer questions the circumstances surrounding the issuance of a visa. In such instances, the officer should communicate with the overseas post as quickly as possible. The person should be dealt with according to 2.12.

2) Immigrants

a) Generally speaking, all immigrants have undergone a pre-examination and the issuance of an immigrant visa is evidence that at the time of its issue, the immigrant was deemed to meet the admission requirements of the Act and Regulations.

b) However, the examining officer must be satisfied that the immigrant does not fall within the inadmissible classes described in A19(1) and (2), and that his admissibility has not been affected by a change in any of the conditions under which he was granted an immigrant visa.

c) Where inadmissibility is found or a change in conditions is evident, the examining officer will make his report pursuant to A20(1).

3) Visitors

a) Examining officers must be satisfied that visitors:

i) are in good health and have been medically examined where required pursuant to R21 or A11(2);

ii) are able to maintain themselves in Canada and to effect departure, either by funds in their possession or from assistance to be given by friends or relatives (A19(1)(b));

iii) do not fall within the other inadmissible classes as described in A19(1) and (2);

iv) hold evidence of re-admissibility to their countries or of admissibility to a third country (R14(3));

v) comply with passport, travel document, and visa requirements where applicable (R13 and R14);

PREFACE TO THE IE COMPONENT OF THE IMMIGRATION MANUAL SYSTEM

1. SERVICE TO THE PUBLIC

a) The IE (Examination & Enforcement) component of the Immigration Manual system (which is in the public domain) contains guidelines and procedures dealing with the port of entry examination of ALL persons seeking to enter Canada, the obligations of international carriers, inland settlement and control of immigrants and visitors, the protection of refugees in Canada, and the various enforcement processes (investigation and arrest, inquiry, detention and removal).

b) i) Regardless of what aspect of the Immigration Program is being delivered, it is important that our clients receive the best decisions or information, based upon law and policy, which they perceive as being clear and fair, and delivered in a courteous and timely manner (in keeping with established priorities).

ii) Two forms (IMM 1412 - Call-In Notice and IMM 1423 - Inquiry Referral) exist to assist CIC staff in scheduling appointments and receiving incoming telephone calls for information etc.

c) The contents of this component are therefore NOT to be regarded as binding instructions, nor are they intended to envisage every contingency. Rather, they are presented as guidelines to assist officers in applying sound judgement in the performance of their duties under the Immigration Act, Regulations and related legislation (see the IL component of the Immigration Manual system). Where conflict or inconsistency exists between these guidelines (including related Operations Memoranda) and the provisions of the Immigration Act, Regulations and related legislation, the latter must take precedence.

d) Whenever it becomes necessary to take a solemn declaration from either a client or staff member with respect to ANY aspect of the Immigration Program, an IMM 1392 (Declaration) is to be completed and utilized as necessary.

2. LANGUAGE PREFERENCE

a) In keeping with the provisions of the Official Languages Act, and the right of the public to be dealt with in the official language (English or French) of their choice, every CIC must retain at least one set of the IE volumes in bilingual format for viewing on demand by persons in the private sector. Such sets are NOT, however, to be removed from offices by the general public under any circumstances. Offices will provide, within reason, photocopies of a section of the manual of particular interest to a client. Should a client request photocopies of a complete chapter or chapters (or several sections), thereby indicating more of a general interest in immigration matters, the client will be advised that a complete set of IE volumes is available as indicated in paragraph 5 hereunder.

b) Remaining IE sets may be in either English or French (or bilingual) as required.

c) Whenever a client neither speaks nor understands either of the official languages, and it is necessary to have an interpreter explain the contents of an established program form which does NOT have a built-in interpreter declaration, the interpreter will be required to complete an IMM 1265 (Interpreter Declaration) for retention on the appropriate case file.

3. DISTRIBUTION OF IE COMPONENT TO OFFICIAL HOLDERS

* The IE component is distributed to Immigration officers in Canada (see IS 29), and to visa officers at "full immigration processing" posts abroad (see chapter IS 28) through NHQ distribution List 38, and to paying subscribers in the private sector through Supply and Services Canada.

4. ASSIGNMENT OF IE COMPONENT

a) Regional and District HQs, CICs and Posts Abroad

IE volumes will be assigned to these locations in quantities deemed necessary by local management (bearing in mind the cost of the volumes - and the actual needs within each office). Such volumes must NOT, however, be moved between offices. Allocation of sets to individuals within each office is left entirely to the discretion of local management.

b) Immigration National Headquarters

IE sets are charged in bulk quantities to each Branch (c/o of the Administrative Officer) whose responsibility it is to maintain a list of holders and distribute revisions/amendments, etc., accordingly.

c) Other Commission/Department Headquarters and Other Governments/Agencies

IE sets are assigned to the various positions - NOT to individuals. Staff changing jobs will leave the volumes for the new incumbents.

5. PROVISION OF IE COMPONENT TO THE PRIVATE SECTOR

* a) The two volume IE component is available in English or in French. The cost for this manual and the amendment service is established by the Canadian Government Publishing Centre. To obtain these costs the public must write to:

The Canadian Government Publishing Centre,
Supply and Services Canada,
Ottawa, Ontario
K1A 0S7

The public may also call the order desk at 819-956-4802 to obtain prices. PLEASE IDENTIFY THIS PUBLICATION BY QUOTING CATALOGUE NO. MP22-10-1984.

* b) i) Full depository libraries listed with the Canadian Government Publishing Centre are entitled to a free set of the IE manual. To order or to inquire about the depository list write to:

Customer Service,
The Canadian Government Publishing Centre,
Supply and Services Canada,
Ottawa, Ontario
K1A 0S7
Tel: 819-956-4802

ii) Any of the above requesting more than one set will be required to pay the full price for each additional set, plus the annual revision/amendment subscription fee.

c) Individual chapters or portions of the IE component are NOT for sale separately.

d) i) Requests for the IE component must be submitted in writing to the address shown hereunder accompanied by the appropriate fee (cheque or money order) made payable to The Receiver General for Canada. The covering letter must state that the request is for "the IE component of the Immigration manual system", must specify the language desired (English, French or bilingual) and must include the full return mailing address, with postal code:

The Canadian Government Publishing Centre,
Supply & Services Canada,
OTTAWA, Ontario K1A 0S7

* ii) Queries from the public holders about missing amendments should be directed in writing to the address in b) above or by telephone at 819-997-2560.

e) Supply & Services Canada will NOT forward the volumes until personal uncertified cheques clear the banks. They will return, unfilled, any orders which do not comply with d)i) above.

f) Anyone who fails to pay the annual subscription fee will be deleted from
* the distribution list. In the event this pertains to a recipient who was initially exempted from the purchase fee, any subsequent order for the IE component must include the full purchase fee.

6. CHANGE OF ADDRESS, POSITION TITLE, ETC.

a) Envelopes containing revisions/amendments have, on the reverse, a space for notification of address changes, etc. Recipients are asked to take the time to complete one of these as and when details of their addresses are changed. This includes position titles, personal names, etc. and only takes a moment. Failure to do so could result in loss of amendments and, consequently, an outdated set of guidelines.

b) Envelopes containing amendments from the Post Office marked "moved - no forwarding address" will cause that address to be deleted from the distribution list. The onus is on the recipient to advise of change of address.

7. SURPLUS VOLUMES

* Any area mentioned in 4 a) to c) above having surplus IE volumes will contact the Chief, Editing and Publishing, Immigration Support Services, Employment & Immigration, Ottawa, Ontario, K1A 0J9 with a memorandum containing full details of the surplus set (i.e., is it up to date, etc.) BEFORE disposing of the volumes.

8. REVISIONS TO IE COMPONENT

The process for revising text in this component can be found at chapter IA 1.01.

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CHAPTER 1

OBLIGATIONS OF TRANSPORTATION COMPANIES

AUTHORITY

Act: PART V
Regulations: 38, 42, 50, 51, 52, 53, 54

GENERAL INTENT

1.01 GENERAL

1) Transportation companies have traditionally played an important role in the immigration process. They have historically borne some responsibility for the orderly flow of traffic into and out of Canada and for avoiding situations which might frustrate immigration law or impose undue burdens on the Canadian taxpayer and travellers to Canada. Past experience has shown the vast majority of transportation companies are willing to assist with the accomplishment of immigration goals and objectives and to comply with the requirements of Canadian immigration law. It is considered essential to immigration objectives that the harmonious relationship which has developed between the Immigration Division and the majority of transportation companies over the years be maintained.

2) It is intended that the contents of this chapter will aid officers to administer the legislation in a manner which will assist transportation companies in the orderly movement of persons and goods to and from Canada.

3) Part 2 of the Procedures portion of this chapter is concerned with the examination, documentation and control of seamen and vessels which carry goods and passengers to and from Canada. It is intended that the Guidelines and Procedures set out in this part will help immigration officials in their duty to control foreign seamen and protect Canadian jobs in the shipping industry while at the same time assisting with the orderly flow of vessels into and out of Canada.

1.02 - 1.03 SPARES

GUIDELINES - PART 1 (Applicable to all transportation companies)

1.04 RESPONSIBILITIES OF TRANSPORTATION COMPANIES

1) Responsibility for Conveyance (A85)

a) A86 provides that a transportation company which brings a person to Canada is responsible for providing or arranging return transportation for that person if he is allowed or required to leave Canada prior to admission or is ordered removed after his admission. The only variation in this principle concerns a person who comes to Canada via the U.S.A. For further detail, see 1.16 "Removal to the U.S.A.".

b) The requirement that a transportation company provide return transportation is intended to prevent companies from refusing to make arrangements to convey dangerous or difficult persons such as known criminals or persons with serious mental health problems. This section provides us with the authority to insist transportation companies convey persons from Canada when required to do so. The authority is reinforced by A87 which can be used to penalize companies which do not promptly fulfill their obligation.

2) Duties of Transportation Companies When They are Responsible for Conveyance (A88)

It is the responsibility of a transportation company which is required to convey a person from Canada to accept on board, detain, guard safely, convey and, subject to any agreement between the passenger and transportation company, refrain from seeking payment from the person it is required to convey.

3) Action When Responsibility for Conveyance Neglected (A87)

A87 requires us to notify transportation companies of their responsibility to convey a person from Canada. If the company is not prompt in arranging transportation, we may then make arrangements to have the person carried by an alternative company. In such a case, the original company may then, at our discretion, become liable to cover all the detention and removal costs incurred by us, whether or not it was originally required to cover such costs. The purpose of this section is to ensure that companies do not refuse to accept dangerous or difficult passengers, and also to ensure that persons who are required to leave Canada are not unnecessarily detained or otherwise subjected to undue delay or hardship.

4) Responsibility for Covering Costs (A86)

Transportation companies are always responsible for providing conveyance from Canada. They are not, however, always responsible to cover the costs incurred in the removal. A86 sets out the costs which transportation companies are not responsible to cover, namely:

a) any expenses incurred on behalf of a person who arrives in possession of a valid and subsisting visa; or

b) any expenses incurred after the person has been granted admission to Canada, unless the person came into Canada as a member of a crew and without the approval of an immigration officer, failed to be on the vehicle when it left a port of entry.

5) Responsibility of Transportation Companies to Present Passengers for Examination (A89)

Transportation companies must present each passenger seeking to come into Canada to an immigration officer for examination on arrival in Canada. The purpose of this section is to ensure that passengers are examined by immigration officers and do not inadvertently come into Canada without proper examination.

1.05 POWERS OF IMMIGRATION OFFICERS WITH RESPECT TO TRANSPORTATION COMPANIES (A90) (See also 1.36)

1) A90 empowers an immigration officer to:

a) board and inspect any vehicle bringing persons to Canada;

b) examine any person carried by such vehicle including crew members;

c) examine any record or document respecting any such person;

d) seize and remove any relevant record or document on board a vehicle for the purpose of making copies thereof or taking extracts therefrom;

e) hold a vehicle until the inspection of the vehicle and examination of the passengers and crew is completed.

2) A90(2) gives an immigration officer authority to order the master of a vehicle to hold and detain on board any person who arrived in Canada on the vehicle and who is not seeking to come into Canada. This control measure may be used:

a) to ensure that passengers ostensibly in transit to a third country, or stowaways, are not left in Canada illegally or allowed to wander away from the vehicle, and

b) to prevent the need to take inquiry action in some cases, i.e., crewmen who are prohibited from entry.

1.06 - 1.12 SPARES

1.13 TRANSPORTATION COMPANIES' RESPONSIBILITY FOR MEDICAL EXPENSES (A91) (see also IE 1.30)

1) General

Transportation companies are responsible for providing medical care and for covering the expenses incurred by persons who are ill or injured on or before arrival, or become so before their admission or departure can be effected. Exception: companies are relieved of responsibility for medical costs if the person concerned is in possession of a visa unless his condition is the result of the company's negligence.

2) Members of a Crew (A91(4))

Where a person is a member of a crew, the transportation company is responsible for paying all costs incurred for medical treatment or hospitalization including the costs of removal.

1.14 SPARE

1.15 DETENTION AND REMOVAL COSTS (SEE ALSO IE 1.31)

1) Places and Commencement of Detention

a) A107 provides that where a person is detained pursuant to the Act, the person shall be detained "at an immigrant station or other place satisfactory to the Deputy Minister". A2(1) defines "immigrant station" as "any place designated by the Minister for the examination, treatment or detention of persons for any purpose under this Act" (see Instrument I-20 at Chapter IL3).

b) The 72-hour period referred to in A86 (2.1) commences at the time of the person's arrival at the Canadian port of entry and not at the time when the person is placed in an immigrant detention facility.

c) The responsible transportation company must be immediately advised when a passenger, for whom it is liable to pay detention costs, is detained. It should normally be given a copy of the detention order, IMM 421 (see IE 10).

2) Detention Costs - Persons Subsequently Admitted to Canada

a) Costs Before Admission

A86(2) and (2.1) provide that, in cases where there is no valid and subsisting Canadian visa, a transportation company is liable to pay full detention costs incurred before a person is admitted to Canada, with two exceptions as follows:

i) If, after having received notification under A87(1) of its obligations under A85(1), the carrier is not prompt in furnishing transportation and another company is called upon to transport the

person out of Canada, the original carrier will be billed accordingly (A87(2) and (3)). The charges will include the first 72 hours of detention, any additional detention days brought about by their not providing transportation as soon as possible, and the cost of conveyance.

ii) Carriers are responsible for full detention and removal costs related to crew members (A86 (2.1) and (3)).

b) Costs After Admission

A86(3) provides that a transportation company is not liable for removal or detention costs incurred after a person has been admitted to Canada unless A87 applies (see a) i) above), or the person being removed was admitted as a crew member (see a) ii) above).

3) Detention and Removal Costs - Persons NOT Admitted to Canada

a) A86(1), (2) and (2.1) provide that where the obligation under A85 becomes a factor in respect of a person who is not admitted to Canada, and who was not in possession of a valid and subsisting Canadian visa (see also b) below), the carrier must pay all removal and detention costs incurred within 72 hours after the person's arrival in Canada.

b) The 72-hour limit no longer applies, nor does the exemption provided for by a valid and subsisting Canadian visa if, when given notice pursuant to A87(1) of its obligations under A85(1), the carrier is not prompt in furnishing transportation and another carrier is called upon to transport the person out of Canada (A87(2)).

c) Carriers are responsible for full removal and detention costs related to crew members (A86(2) and (3)).

4) Detention and Removal Costs Borne by Carriers

a) Once the Commission surrenders custody of the person to the carrier, the latter must then "detain" and "guard safely" the person until boarding on the vehicle (A88(1)).

b) Once aboard, the duty to "guard safely" continues and the person must then be transported out of Canada.

c) The costs inherent in discharging the obligations imposed by A88(1) are not detention costs as that expression is understood elsewhere in the Act. The costs foreseen in A88 are costs incurred by the carrier itself, and A88(2) provides that the carrier cannot seek reimbursement for those costs (except for any agreement between the carrier and the person concerning return fare).

5) Minister's Permit

As a matter of policy, a transportation company will not be held liable to pay the removal and detention costs of any person who is in possession of a valid Minister's Permit when seeking to come into Canada, or who, having been allowed to come into Canada, is ordered removed following the cancellation or expiration of such a permit.

1.16 REMOVAL TO THE UNITED STATES

1) General

A transborder carrier which has conveyed a person who has travelled via the U.S.A. to Canada is only responsible for conveyance to the U.S.A. It is relieved of responsibility for providing return transportation if the U.S.A. refuses to allow re-entry. In such a case, the transportation company that brought the person from abroad to the U.S.A. is responsible to provide or arrange transportation.

2) Meaning of "Through the United States"

The phrase "through the United States" means continuous transit through that country in the course of a journey from outside the borders of that country to Canada. While it is not possible to identify all the circumstances which may constitute "continuous transit", it should normally be interpreted as a journey which was booked in the original country of departure, may include different types of vehicles, and the itinerary of which may only be changed en route for good reason, e.g., sickness, weather conditions, etc.

3) Administrative Action

Before a transportation company becomes responsible for the removal of a person pursuant to A85(2), two things must happen:

a) The persons who came to Canada through the U.S.A. must be either required or allowed to leave Canada; and

b) The U.S.A. must refuse to allow him to return or to be returned to that country. It is essential, for administrative reasons, that the refusal of the U.S.A. authorities be in writing.

4) Transborder Railway and Bus Companies

Where a transborder railway or bus company is responsible for the removal of a person from Canada to a place in the U.S.A., the Act requires only that such person be returned as far as the first divisional point in the U.S.A.

GUIDELINES - PART 2 (Applicable to Maritime Carriers ONLY)

1.17 EXAMINATION OF PERSONS CARRIED TO CANADA BY SHIP (A12)

1) Every person seeking to come into Canada, including seamen and passengers, is required by A12 to appear before an immigration officer for examination. Although it may be impractical to examine in detail every individual member of a ship's crew prior to his entry to Canada, an examining officer may, whenever a ship appears at a port of entry seeking entry to Canada, examine any or all members of a crew. It is the policy of the Commission that the members of ships' crew are normally considered to have been granted entry as visitors at the time a senior immigration officer validates the crew list at the initial port of entry. Therefore, if there are doubts as to the admissibility of certain crew members, these members should be examined before the crew list is verified.

2) a) Traditionally, certain officers of mercantile vessels have enjoyed the privilege of having members of their family accompany them, and the practice has been to include the names of such accompanying family members on the crew list. These persons have been allowed to enter Canada as members of the crew. During 1986 an inquiry held with respect to a wife and daughter who had not returned to the ship was terminated when it became evident that the basis for the injury (A27(2)(j)) was faulty, since the subjects were in fact passengers and not crew members.

b) In future all such supernumeraries will be required to have visitor visas unless they are exempt from the visitor visa requirement.

c) Where a mercantile ship makes an unscheduled call at a Canadian port, or there is some other reason why the accompanying relative has not had an opportunity to apply for a visa, SIOs are encouraged to consider entry under A19(3).

3) Addresses of CICs with ship examination responsibilities are listed in Appendix "J" to this chapter.

1.18 CREW LISTS (IMM 200 OR IMCO FAL FORM #5 - R53, R54)

The purpose of a Crew List is to ensure that an accurate record of seamen coming into and leaving Canada is maintained for control. It assists immigration officers to determine whether seamen have deserted or otherwise left the ship on which they entered Canada.

1) Ship of Foreign Registry (R53)

a) Where a ship of foreign registry, with a crew of more than 10 members, arrives in Canada, the master must provide a senior immigration officer with a Crew List in three copies. At the time of departure from Canada, the master must provide a senior immigration officer with a Crew List in two copies indicating thereon any changes from the list provided on arrival. A Crew List need only be provided between arrival and departure when a change in the original crew complement has been made.

b) Ships with crews of ten or less crew members must be examined on entry to Canada. The seamen on board such ships may be documented on IMM 1097 if, in the opinion of the examining officer, a control measure is needed.

2) Ship of Canadian Registry (R54)

On first arrival and final arrival in Canada in any particular calendar year, the master of a ship of Canadian registry, with a crew of more than ten members, must provide a senior immigration officer with a Crew List. A Crew List need only be provided between the above two occasions when a change in the original complement of the crew has been made.

1.19 REPORT ON SEAMEN WHO ARE DISCHARGED, HOSPITALIZED, DESERT, ETC., AFTER THE ARRIVAL AND BEFORE THE DEPARTURE OF A SHIP FROM CANADA (R53 AND R54)

The master of a ship must make a report to a senior immigration officer concerning any seaman who is discharged, hospitalized, seeks entry, deserts or fails to rejoin the ship at a port of entry, whether or not the ship is about to leave Canada.

1.20 DESERTERS (R53(3)(b) AND R54(4)(b))

1) Any person, other than a Canadian citizen or permanent resident, who came into Canada as a member of a ship's crew and, without the approval of an immigration officer or beyond the period approved by such immigration officer, failed to be on the ship when it left a port of entry, is considered a deserter (see also IE 5.27).

2) R53(3)(b) and R54(4)(b) require the master of a ship to report a deserter. This should be done prior to the ship's leaving a port of entry. Deserters must be reported even though the ship is destined to another port in Canada.

1.21 SECURITY BY MARITIME CARRIERS (A92)

1) General Security (A92)

a) Maritime companies with vessels which regularly come to Canada will normally be required to make a general deposit pursuant to A92(1) as a guarantee that the companies will pay all fines and other amounts for which they may become liable under the Act.

b) The "Consolidated List of Surety and Maritime Companies" provides the names of approved surety companies and maritime companies that have deposited satisfactory security with the Commission pursuant to A92(1). The list is distributed by the Case Review Division, Case Management Branch, Ottawa, Ontario K1A 0J9 (819-953-8096).

2) Security for Special Purposes (A92(2))

Maritime companies with vessels which only rarely come to Canada, such as small shipping companies with only one or two vessels, will not normally be required to post a continuing bond pursuant to A92(1). Rather, they may be required to make a cash or other security deposit in the amount deemed necessary when one of their vehicles arrives in Canada. The deposit will be returned to the company once the vehicle has left our country and we have determined that all penalties or other expenses for which the company may be responsible have been paid. See IE 1.40 5) "Security for a Special Purpose (A92(2))".

3) Non-Commercial Vehicles

Any non-commercial vehicle such as a yacht, aircraft, or military vessel which travels occasionally to Canada, is not considered a "transportation company" for the purposes of A92. Non-commercial vehicles will not normally be required to deposit security pursuant to A92 and need not comply with IE 1.40.

1.22 DEDUCTION FROM THE SECURITY DEPOSITED BY MARITIME COMPANIES (A93)

Deductions from security deposited under A92 may be made when a maritime company fails to comply with any of the provisions of Part V of the Act or any of the regulations made pursuant to those paragraphs of A114(1) which are set out in A93(1) (see 1.23) if the company does not file a notice of objection. If the maritime company protests the penalty, when it feels the penalty is unwarranted or too severe and satisfactory arrangements cannot be negotiated pursuant to A93(2)(a), the company's liability must be proven in court before the penalty can be deducted from the security deposited under A92 (see IE 1.41).

1.23 COSTS INCURRED BY SEAMEN

1). Detention and Removal Costs (A86(3) or R42)

Shipping companies are responsible to cover detention and removal costs incurred by seamen (see IE 1.35 7)).

2). Medical Costs

Shipping companies are responsible to pay all medical costs incurred by crew members, including costs incurred with respect to the departure of the seaman from Canada.

1.24 - 1.29 SPARES

PROCEDURES - PART 1 (applicable to all transportation companies)

1.30 RESPONSIBILITY FOR MEDICAL TREATMENT AND HOSPITAL CARE COSTS - PORTS OF ENTRY - (A19(1)(a), A86, A89(2), A91, R42, P.C. 1957-11/48)

1) Medical Treatment and Hospital Care Costs (A91)

Persons ill or injured upon a vehicle's arrival, or who become so before their removal is effected, are provided with medical care and expenses under A91. Medical and senior immigration officers are thereby authorized to direct a person be held for observation or be taken to a hospital for care and diagnosis. This provision, in conjunction with H&WC's Quarantine legislation, helps protect the public from contact with persons who may be carrying contagious diseases.

2) A91 defines the following preconditions which must be satisfied prior to a transportation company's being held liable for medical, hospital and other costs incurred by a person not having been subject to detention:

a) the person must not have been granted admission (A91(1));

b) i) if the person possesses a valid and subsisting visa, the Deputy Minister or his delegate (see Instrument I-28 at Chapter IL 3) must consider the sickness or disability resulted from the transportation company's negligence (A91(2));

ii) it is the Commission's policy that the Deputy Minister or his delegate will be satisfied that a person's medical condition is not due to a transportation company's negligence unless an immigration officer has reason to suspect negligence. In such a case, the transportation company should be asked to satisfy the Deputy Minister, or a delegated officer that the person's medical condition is not due to its negligence;

iii) to determine responsibility for costs, permit holders are considered to possess a valid visa because they have been pre-examined (A91(2));

c) a medical officer must consider the person may be suffering from sickness, mental or physical disability, or has contacted a contagious disease (A91(1));

d) a medical or senior immigration officer must direct that the person be afforded medical treatment, taken to a hospital, or otherwise provided with medical care (A91(1)).

Transportation companies are not liable to pay medical costs incurred by persons having a right to enter Canada, including Canadian citizens and returning residents (A4).

3) For humanitarian reasons, the Commission considers that persons coming into Canada should enjoy the same emergency medical care as the general public.

4) Normally, when a member of the general public becomes ill in a public place, local emergency medical personnel are called. When a patient needs special medical care, lesser qualified medical personnel telephone a doctor, who, after considering the symptoms described, may decide the person needs extensive treatment at a hospital.

5) Immigration legislation conforms to the above standard emergency medical procedure. Therefore, when a person appears to be seriously ill, it should be normal practice to contact local emergency medical personnel. Normally, an H&WC nurse is stationed at international airports and occasionally, a medical officer at major airports. However, if such a medical officer is not part of the emergency team, one should be telephoned when it becomes obvious a person may need special treatment or hospital care. The medical officer, having reviewed the symptoms described by local medical personnel or by an immigration officer, may indicate that the patient is suffering from sickness, disability or disease as in A91. Subsequently, the medical officer or senior immigration officer may direct the person be taken to a hospital. The medical officer's opinion should subsequently be confirmed in writing.

6) Special Procedure - Person is Rushed to Hospital Without Consulting a Medical Officer (P.C. 1957-11/48)

a) There may be rare cases of extreme medical emergency (e.g. cardiac arrest) when it will appear expedient to rush a person to a local hospital without first consulting a medical officer. According to our legal adviser, a transportation company is not liable to pay a person's hospital expenses unless the conditions in A91(1) have been satisfied, namely, a medical officer considers the person is sick and either a medical officer or a senior immigration officer directed the person be taken to a hospital (see 2)c) and d) above). In view of our legal adviser's comments, persons should be taken to a hospital without first contacting a medical officer only in rare cases of obvious extreme emergency.

b) Payment of medical and hospital expenses incurred in certain cases, including those in 6)a) above is provided for annually by Parliamentary funds to the Immigration Medical Services of H&WC. These funds may be used when the transportation company, which brought the person to Canada, cannot be held liable for medical expenses, the person lacks financial resources to pay and an immigration officer has referred the person for medical examination or treatment.

7) Responsibility to Pay Medical and Hospital Costs of Persons Ordered Detained (R42)

R42(e), based on A115(1)(o), provides that medical treatment and hospital costs incurred while a person is detained are expenses to be included when determining removal and detention costs (A86). R42(e) clearly spells out the expenses for which a transportation company is liable when a person for whom it is responsible is detained, (including medical treatment and hospital care).

8) Under A89(2), many major airline companies have been required to provide detention facilities (hotel accommodation with special security arrangements) for persons they brought to Canada. The company concerned is billed directly for accommodation and security costs, without any participation by the Commission. When a person takes ill when detained in such a facility, the company may arrange for a nurse or doctor to administer to the person, or it may, in extreme medical emergencies, escort the person to a local hospital. In any event, the airline company concerned is responsible for costs incurred (R42(e)). A91(1) provisions DO NOT have to be satisfied in such cases prior to administration of medical or hospital treatment because expenses are incurred while the person concerned is detained.

9) Immigration legislation specifically restricts the reasons for a person's detention; when a person poses a danger to the public, or would otherwise not appear for examination or inquiry (A23(5)). Consequently, under no circumstances is it permissible to order or hold a person in detention merely to make a transportation company responsible for medical or hospital costs.

10) If a transportation company is to be held liable for hospital and medical costs incurred by a person who is released from detention prior to admission or during hospitalization, the requirements of A91(1) must then be satisfied (i.e. seek a medical officer's opinion as to the person's condition and, where required, the medical officer or a senior immigration officer should subsequently direct the person be taken to or remain in hospital).

11) Responsibility for Medical Examination and Diagnosis Costs - Immigration Officer Suspects Person May Come Within A19(1)(a)

Immigration officers at ports of entry are responsible for deciding whether persons seeking admission should undergo a medical examination. This examination determines whether a person is inadmissible under A19(1)(a). Since it is impossible to outline all situations under which persons should be singled out for medical examination, immigration officers must use good judgment, basing their decisions on the person's total health profile. When a person appears to come within the terms of A19(1)(a), immigration officers should seek guidance from the most qualified medical person readily available (i.e. a medical officer, nurse, or staff member with first aid training). If a medical officer is unavailable, and after consulting with alternative medical personnel, the immigration officer may wish the person to be examined by a local physician. If a transportation company is to be held liable for medical examination or diagnosis costs, ensure A91(1) requirements are satisfied. To comply with A91(1), follow the procedure in 5) above, where a medical officer's opinion via telephone may be used. When a local physician's services are provided without charge, there is no need to comply with A91.

12) Regional Liaison Between Immigration and Medical Services, H&WC

Regional immigration officials and their H&WC counterparts are responsible for arranging suitable medical care for persons at ports of entry, including availability of medical officers for A91 purposes. Due to differing traffic patterns in various regions, H&WC arrangements may vary according to particular local needs.

1.31 DETENTION & REMOVAL COSTS - TRANSPORTATION COMPANY BILLING (See also IE 1.15)

1) Formula For Billing

a) i) Detention costs charged to carriers will be on a "per diem" basis and will be calculated using the total costs in the region for the previous fiscal year, i.e.,

$$\frac{\text{Hotel Costs (Room plus meals) plus Security Costs}}{\text{Total Detention Days}} = *$$

* $ xxx per diem

ii) Using the above formula, a detention encompassing the full 72 hours will cost the carrier 3 x the per diem rate.

b) Detentions of less than 72 hours will be calculated as follows:

i) Up to 24 Hours

A) If a room in a leased immigration facility is used, and 3 meals are provided, apply one day at the per diem rate arrived at in a)i) above. For each meal not served, deduct $6.00 from the charge.

B) If the person is detained for a period of hours and leased immigration facility is not utilized, charge only for the meals served.

ii) Over 24 Hours

Any detention of over 24 hours in a room in a leased immigration facility will cost the carrier the full per diem rate as follows:

A) First 24 hours - full per diem rate;

B) Any portion of the next 24 hours - full per diem rate x 2 minus $6.00 for each meal not served;

C) First 48 hours - full per diem rate x 2;

D) Any portion over 48 hours up to 72 hours - the full per diem rate x 3 minus $6.00 for each meal not served.

c) Jail, regional detention centre and hospital costs will be passed directly on to the transportation company based upon invoices paid to municipal or provincial authorities, as applicable.

d) Transportation companies must realize that per diem rates arrived at by the formula in a) will vary from region to region and even within regions due to differing costs for leased holding centres and security services. The same applies to charges by municipal jails, provincial correction centres and hospitals, i.e., the costs will vary from province to province and even within provinces on occasion.

2) Notification to Transportation Companies - Responsibility For Conveyance

a) Transportation companies which are responsible to provide transportation will be given IMM 1216 (see APP. "A" and b) below) and advised that the person is:

i) allowed to leave Canada pursuant to A20(1)(b) or A23(3)(d);

ii) rejected from Canada pursuant to A13;

iii) directed to return to the U.S.A. pursuant to A20(2), A23(4);

iv) ordered deported pursuant to A32(2), (5) or (6), A37(5) or (6), A39(10), A73(2) or A74(1) or (3);

v) ordered excluded pursuant to A32(5), A37(5), A73(2), A74(1) or (3).

b) IMM 1216 has been designed to indicate whether a company which is responsible to convey is also liable to pay the costs incurred. If the company is liable to cover the costs incurred, no alterations to IMM 1216 need be made. If, however, the company is not liable to cover the costs incurred, then the line of IMM 1216 which indicates the company is liable to pay the costs must be crossed out and initialled.

1.32 - 1.34 SPARES

1.35 SUBMISSION OF MEDICAL, DETENTION AND REMOVAL ACCOUNTS

1) All Billings to Regional Treasury Office

Invoices for persons who have been subject to detention or removal will be certified when received and sent immediately to the regional Treasury Office for payment.

2) Report on IMM 459

Accounts are only to be submitted in cases where there is a responsible transportation company involved. Immediately after a person who has incurred detention, removal or medical expenses, has left Canada, or has been permitted to remain in Canada, or is otherwise no longer under the jurisdiction of the CIC, the latter will report all costs incurred locally to Accounting Operations, Regional Financial Services, using IMM 459 (see App. "B"). In the case of ship deserters, all costs incurred are to be sent to the Director, Accounting Operations, NHQ.

3) All IMM 459s will:

a) be completed in triplicate (two for NHQ) for each person or family;

b) show the name of the issuing office with the account number, e.g., Halifax-21 in the appropriate space;

c) show, in the "remarks" item, the "Order Number" of the Transportation Order E&I 2546 (see APP. "C") where applicable;

d) indicate whether or not any other accounts are anticipated;

e) give a brief summary of the case in the "Remarks" item which should include the following information: date and port of arrival, name of carrier, reason for removal (quote section of the Act), date and place of departure from Canada.

See also 7) hereunder.

4) Detention Costs

The rates charged for persons detained in public institutions, mental hospitals, etc., vary considerably by province and are subject to change, in some instances, on a monthly basis. Transportation companies will be charged in accordance with billings received. (See also IE 1.30 and 1.31 1)d)).

5) Travel Expenses

The cost of transportation and the expenses incurred by the escort officer will be included on IMM 459. When travel arrangements are altered, any unused tickets will be forwarded through normal channels with sufficient information to Accounting Operations, Regional Financial Services to obtain a refund.

6) Apprehension Expenses - RCMP

The RCMP will provide the local immigration authorities with a statement of expenses incurred in apprehending a ship deserter immediately the deserter is handed over to Immigration. These expenses are to be shown on IMM 459 in order that they may be charged to the transportation company responsible.

7) Detention and Removal Expenditures (see also IE 1.15 and 1.31)

a) The following items may be included on the IMM 459 and are considered legitimate detention and deportation expenditures:

i) Expenses incurred in the identification of a person for removal from Canada (R42(b));

ii) Expenses incurred in procuring travel documentation, i.e., passport fees, etc., for a person who is to be removed (R42(c));

iii) Expenses incurred in providing escort services, including costs incurred by other agencies, such as the RCMP, when they act on behalf of the Commission (R42(d));

iv) The costs of accommodation, meals, guard service, medical treatment and hospital care while a person is detained. (See also IE 1.30 and 1.31, A86, R42(f)).

v) Expenses incurred within or outside Canada with respect to the transportation of a person who is removed (A86, R42(f)).

b) The following are those items for which transportation companies are liable with respect to deserting crew members (see A86(3), R42).

i) The expenses for detention, maintenance, medical treatment, transportation, or otherwise, for which a transportation company may be held liable respecting a crew member, must be expenses that are related to the return of the crew member to the vehicle, his voluntary departure from Canada, or his removal from Canada.

ii) In addition to the items outlined in a) above, transportation companies are responsible for paying the costs of locating a crew member who, without the approval of an immigration officer, failed to be on the vessel when it left a port of entry, i.e., mileage charges incurred in locating seamen deserters (R42(a)).

c) The following items are not considered legitimate detention or deportation expenses:

i) case-presenting officer's expenses;

ii) interpreter's fees;

iii) investigational mileage charges, except for deserters (R42(a));

iv) salary or overtime costs incurred by immigration personnel;

v) expenses related to the holding of the inquiry.

8) Transborder Transportation Companies

In U.S.A. cases involving only transborder transportation companies, the policy of the Commission in normal cases is to pay escort costs including meals and sleeping accommodation and not to charge such to transportation companies as removal costs.

9) Use of Canadian Carriers

Canadian carriers should be used (whenever possible), where the original carrier cannot be identified or where the person came into Canada by private means, i.e., automobile, in arranging transportation of persons being conveyed from Canada. Every effort will be made to ensure equitable distribution of the business among the Canadian carriers. When a Canadian carrier cannot provide space, however, a foreign carrier may be used.

* 1.36 HOLD, SEARCH, SEIZE AND FORFEIT VEHICLES

1. Board and Hold a Vehicle (A90(1))

a) Immigration officers have the authority to "hold" a vehicle until an inspection and examination is completed. The meaning of the term "hold" includes the retention and control of the vehicle. The terms inspection and examination imply that a careful look at the vehicle is expected. This could include a search of those areas where stowaways may be hiding or where travel documents may have been hidden. Immigration officers have a broad authority to inspect and examine vehicles bringing persons to Canada provided they can demonstrate, if challenged in the courts, that the purpose of their actions was to administer and enforce the immigration legislation. Their authority extends to and includes the responsibility to undertake a careful inquiry into the facts of any suspected infraction of the Immigration Act and the gathering of evidence to support allegations related to such infractions. For example, where intelligence information or unusual flight patterns by a charter aircraft or the initial inspection of passengers carried leads immigration officers to believe that the aircraft warrants special attention, the vehicle may be held until all passengers have been examined, appropriate reports completed and the vehicle carefully searched for hidden documents or other relevant evidence.

b) Where charges are contemplated evidence must be collected in a special manner in order to be acceptable in the courts; in order to ensure that this is properly done normally the RCMP will be involved in the process, see section six for further details.

c) When a vehicle arrives at a time when personnel are not immediately available to carry out an inspection, i.e., in the early morning hours or if a devious operator chooses to land at a small facility without sufficient personnel for an immediate inspection, the vehicle can be held under A90(1) until appropriate personnel including Immigration, Health, Customs and RCMP officials have the opportunity to inspect the vehicle. Again the holding and inspections must relate directly to the enforcement or administration of the Immigration Act. Where after review of the facts uncovered during the initial inspection it is determined that there are reasonable grounds to seize the vehicle under A102.01, then that action should be taken.

2. Seizure and Forfeiture of Vehicles (A102.01)

a) The Act confers upon immigration officers and peace officers the power to seize and forfeit vehicles where the officer has reasonable grounds to believe the vehicle was used in any manner in connection with a contravention under A94.2 or A94.4. These two sections refer to persons who knowingly organize, induce, aid or abet the coming into Canada of a group of ten or more persons who are not in possession of valid and subsisting visas, passports, travel or identity documents required by the Act (A94.2) or who, being the master of a ship or a member of the crew of a ship, disembarks or allows the disembarkation of one or more persons at sea for the purpose of aiding or abetting that person or persons to come into Canada in contravention of the Act (A94.2).

b) Vehicles may be seized where there is evidence that a contravention of A94.2 or A94.4 has occurred. Such evidence might include documentary evidence, statements by passengers, admission by crew members, or other reliable evidence to suggest that the owners or agents, or the master of the vehicle, was aware that the vehicle was transporting passengers who were not in possession of documentation required by the Act or Regulations.

3. Consultations and Procedures to Effect a Successful Seizure

a) The Director General, Enforcement Branch, or the Director, Port of Entry Control, should be consulted when a seizure is contemplated. An exception to this is the situation where an on-the-spot decision is necessary to prevent a vehicle from "escaping" or otherwise leaving or frustrating the Commission's jurisdiction to act. In such cases, the immigration officer on the scene must make the decision with respect to the seizure. This decision will only be made after consultation with the most senior official available, preferably a senior regional official. The Director General, Enforcement, or the Director, Port of Entry Control, must be advised as soon as possible after such action has taken place.

b) It must be noted that seizure of a vehicle under A102.01 or 102.02 is based on the suspected contravention of A94.2 or 94.4. Since, by agreement, the RCMP is responsible for prosecutions undertaken pursuant to our Act, regions will, where possible, consult with the RCMP before measures to seize a vehicle are undertaken. It is imperative that action to seize a vehicle not be undertaken until there are reasonable grounds to believe that an infraction of A94.2 has taken place. While RCMP officers as peace officers have the authority to seize a vehicle pursuant to A102.01, because of our presence at ports and because of our responsibility to administer the immigration program, it is acknowledged that in most cases immigration personnel will make the decision on whether or not to seize a particular vehicle. Assistance from the RCMP in securing the physical seizure of a vehicle should be sought, as required.

c) In the event a vehicle is seized, officers must provide a receipt in the form of a written notice of the seizure to the person from whom the vehicle was seized and to other parties who may have an interest in the vehicle (i.e., owners, mortgagees, lien-holders and the like (A102.01(3)). See Appendix "K". A seized vehicle must be placed in the custody of a senior immigration officer for safekeeping (A102.5). Regional management will determine how this can most effectively be accomplaied, in view of local circumstances. The officer who seizes a vehicle must make a report concerning the circumstances of the seizure to the Deputy Minister (A102.11).

d) Prosecution under A94.2 cannot proceed in the Courts without the consent of the Attorney General or the Assistant Attorney General (94.3). The information forwarded to NHQ detailing the seizure of a vehicle must include the basis for the alleged offence under A94.2, including the RCMP report on the matter. This informaiton will assist us to take initiatives through Legal Services to have the merits of the proposed A94.2 action reviewed by the Department of Justice and, where appropriate, the approval of the Attorney General to proceed with A94.2.

4. The Following are some Examples of Situations Where Seizure is Normally Not Appropriate

a) Private Autos

Because A94.2 requires that a group of ten or more persons must be involved, A102.01 would not normally be applicable to a private auto. Buses or large vans could accommodate a group of ten or more undocumented or improperly documented aliens, and therefore might be subject to seizure.

b) Aircraft - Regularly Scheduled Flights

Regularly scheduled passenger aircraft bringing ten or more undocumented or improperly documented aliens to Canada would not, under normal circumstances, be subject to seizure because A94.2 specifies that to be guilty of an offence a person must knowingly organize, induce, aid or abet. Where a contravention is suspected in the case of a regularly scheduled flight the RCMP should be asked to investigate. If the RCMP obtain sufficient evidence to warrant prosecution under A94.2 the Director, Port of Entry Control at NHQ should be notified.

5. Search Warrants - A102.02

a) In relation to contravention of A94.2 and A94.4, the Act also provides expanded powers to search (with or without a warrant) and to enter with respect to the search. It also places a time limitation on seizures. (See A102.02, 102.03 and 102.04).

b) Where there are reasonable grounds to believe that a vehicle used in connection with a contravention of section A94.2 or A94.4, or evidence in respect of such a contravention will be found, immigration officers and peace officers will seek to obtain a search warrant (A102.02(1)) from a justice of the peace. However, A102.02(5) provides the authority for immigration officers and peace officers to act without a warrant, provided the conditions for obtaining a warrant otherwise exist. Warrants should be obtained except in exceptional circumstances such as where the delay necessary to obtain a warrant might endanger human life, or result in the loss of evidence (see A102.02(5)).

6. Gathering and Seizure of Evidence

A102.01(2) specifically contemplates evidence being seized to assist in the prosecution under A94.2 of the Act. A successful prosecution will, of course, help to justify the seizure of an aircraft under 102.01(1). Since the RCMP will be preparing the case for prosecution, that Force will retain the main responsibility for the gathering of evidence. Immigration officials will assist RCMP officers in this matter, as required. The RCMP will, where feasible, obtain a warrant when a search of the passengers and a vehicle is necessary for the purpose of obtaining evidence to be used in court action. Where any thing is seized as evidence under the provision of A102.01(2) immigration officers are reminded that they must report the circumstances of the seizure to the Deputy Minister (A102.05(2)).

7. Any questions which arise regarding the powers of search and seizure with respect to offenses under A94.2 or A94.4 may be directed to the Director, Port of Entry Control, Enforcement Branch, NHQ.

1.37 - 1.39 SPARES

PROCEDURES - PART 2 (Applicable to Maritime Carriers ONLY)

1.40 GENERAL SECURITY (A92(1), R25)

1) Form of General Security

The Deputy Minister's direction made to maritime companies pursuant to A92(1) requires the deposit of security of not less than ten thousand dollars ($10,000) in Canadian currency and may be in one of the following forms:

a) $10,000 cash;

b) Canadian Government Bearer Bonds or Registered Bonds transferred to the Receiver General for Canada in accordance with the Domestic Bonds of Canada Regulations, having a market value of $10,000; or

c) Guarantee Bond on form IMM 1260 in the amount of $10,000 in Canadian currency.

2) Guarantee Bond on IMM 1260

a) A maritime company wishing to make use of the Guarantee Bond on IMM 1260 (see APP. "D") must communicate in advance with the Case Review Directorate (see IE 1.21 1)b)).

b) The Case Review Division will provide copies of the bond form as well as instructions for completion by an approved surety company as surety.

c) A Guarantee Bond will be valid indefinitely and may be terminated on request of either the maritime company concerned or the surety company involved, upon sixty (60) days prior notice in writing, sent by registered mail, to the address given in a) above. The maritime company may thereafter be required to deposit security in accordance with A92(2) (see 5) below) unless, of course, a replacement Guarantee Bond is posted.

3) Number of Companies Covered by One Security Deposit

There is no limit to the number of companies that may be covered by the bonds in 1) and 2) above. Those using IMM 1260 should list the complete names of all companies to be covered by a Schedule to the form. Names may also be added to other types of security. This is done by way of a letter from the maritime or surety company listing the names of all companies to be covered.

4) Adding of Companies to Original Bonds at Later Date

Additional names may be added at any time to a bond as follows:

a) Guarantee Bonds - by the addition of a further Schedule to an existing IMM 1260;

b) Other type security - by contacting the Case Review Directorate (see 1.21 1)b)), outlining the circumstances of the proposed additional companies.

5) Security for a Special Purpose (A92(2))

a) i) A92(2) authorizes senior immigration officers to require the master of a vessel, which is owned or operated by a transportation company which has not deposited security under A92(1), to make a deposit as a guarantee that the company will pay all amounts for which it may become liable. While senior immigration officers have discretion to determine the amount of security needed in any particular case, normally a $2,000 Guarantee Bond on IMM 1261 (see APP. "E") or a cash deposit of equal value should be sufficient to cover the costs which may be incurred by that vehicle. When a cash bond is taken, the company representative concerned will be given a receipt on IMM 410 (see APP. "F").

ii) A security deposit pursuant to A92(2) can be taken from a vehicle after it has initially come into Canada. This would include ships where expenses are incurred after entry for which we do not have a deposit.

The preferable procedure is to obtain the security deposit upon the vessel's arrival in Canada. Where, however, a security deposit was not taken upon a vessel's arrival in Canada and at some later stage something happens for which the transportation company may be liable, and where a deposit pursuant to A92(1) has not been taken, consideration can be given to using subsection 92(2).

b) Deposits in a)i) are refundable on request (form IMM 709 - see APP. "G") provided a security deposit as in 1) is placed with, and approved by, the Commission or evidence is received that:

i) the vessel has left Canada;

ii) all crew members have departed;

iii) all passengers arriving with the vessel for the purpose of passing in transit through Canada have departed and all persons seeking to come into Canada have been granted admission, or have departed, and any costs incurred as a result of the detention or removal of such persons have been recovered from the transportation company;

iv) all requirements under the Act and Regulations have been complied with.

1.41 DEDUCTION FROM THE SECURITY DEPOSITED BY MARITIME COMPANIES (A93)

1) Where a maritime company fails to:

a) convey a person when required to do so pursuant to A85,

b) pay removal and detention costs when liable to do so pursuant to A86,

c) reimburse Her Majesty for removal and detention costs when requested to do so pursuant to A87,

d) ensure that passengers are in possession of visas as required by R50(1),

e) hold and report stowaways as required by R52,

f) report the escape of persons it has been required to hold in custody pursuant to R51,

g) provide immigration officers with a list in a form established by the Minister of the members of the crew of a ship arriving in Canada, as required by R53(1),

h) report any crew member who is discharged, hospitalized, or who deserts or otherwise fails to rejoin the vehicle at a required time as required by R53(3),

i) provide immigration officers with a list in a form established by the Minister of the members of the crew of a ship departing from Canada, as required by R53(2),

j) refuse carriage to a named inadmissible person pursuant to R50(2),

k) comply with A88, A89, A90, A91, R54,

the senior immigration officer will notify the company that it has committed an offence, and will advise the company that it may, within thirty days of receipt of such notification, show cause in writing why a penalty should not be imposed upon it in respect of that offence.

2) After thirty days, the senior immigration officer will report full details of the offence to the Case Review Division, Case Management Branch, Immigration HQ with a copy to RHQ and will make a recommendation as to whether, in his opinion, the circumstances of the offence warrant the imposition of a penalty. Such a report must be accompanied by the response, if any, from the transportation company, or indicate that no response has been received.

3) The circumstances of the offence, including any response from the transportation company, will be reviewed at NHQ and written notice will be given the transportation company whether or not a penalty will be imposed. The company will be advised that it may, within ninety days, file a notice of objection to any deduction which is directed.

4) Where a notice of objection is received from a transportation company, the penalty may be rescinded or varied, or appropriate proceedings may be undertaken to determine whether or not the company is liable to pay the amount directed.

1.42 - 1.44 SPARES

1.45 SHIPS OF CANADIAN REGISTRY

The procedures outlined in this section are applicable only to ships of Canadian registry.

1) Initial Procedures (R54)

* a) The master of a ship with a crew of more than ten members will present a Crew List (IMM 200 (see App. "H"), IMCO FAL form No. 5 or a similarily formatted computer generated crew list in three copies to a senior immigration officer on first arrival in Canada in any particular calendar year.

b) The senior immigration officer will examine the crew, or individual crew members, as he deems necessary.

c) Crew members who are not Canadian citizens or permanent residents of Canada, and who will be employed with the ship while it is in Canada, will be examined as applicants for admission, and must be in possession of employment authorizations issued subject to the conditions outlined in the Regulations before the vessel arrives in Canada. Admission will normally be recorded on IMM 1102.

d) The Crew List will be endorsed by the senior immigration officer by drawing a line in ink immediately below the last entry and writing "first entry" immediately below that line, dating and signing all copies. The serial number of any control document, i.e., IMM 1102, issued to crew members, will be written just above the seaman's name, and any control document surrendered will be attached to the original (white) Crew List.

e) Copies 2 (yellow) and 3 (pink) of the Crew List will be returned to the master. The original (white) will be retained for one year by the local office.

2) Crew Members Subsequently Signed On

a) The master of the ship will record in sequence immediately below the last entry on all copies of the Crew List, the number, name and particulars of all crew members signed on, both in Canada and outside Canada, adding additional sets of the forms (yellow and pink) as required. A Canadian citizen or permanent resident who joins and leaves the ship in Canada without leaving Canada need not be listed or examined. The Captain will record his name on the next available line on form 200 and his initial number when he embarked, and the reason, date and place where he disembarked.

b) The amended Crew List will be presented to a senior immigration officer upon the ship's next arrival in Canada from a port outside of Canada.

c) The senior immigration officer will examine and document the additional crew members and, immediately below the last entry, draw a line in ink, stamp and sign all copies of the Crew List.

3) Crew Members Subsequently Discharged

a) The master of the ship will present to the examining officer every crew member who is to be discharged in Canada. The immigration officer will:

i) examine the crew member to determine whether the member may remain in Canada when his ship leaves a port of entry;

ii) if the person is allowed to remain in Canada when his ship leaves a port of entry, enter on the next line the number and name of the crew member with an appropriate notation, i.e., "Discharged", "Hospitalized", etc., on the same line, and then sign and date-stamp the Crew List;

iii) return copies 2 and 3 (yellow and pink) of the Crew List to the master.

b) If a crew member other than a Canadian citizen or a legal permanent resident requires medical treatment or hospitalization, an immigration officer will document the crew member on IMM 1097 for control purposes.

4) Surrender of Crew List

a) The master will surrender to Immigration copy 2 (yellow) of the Crew List at the time of arrival at the last Canadian port of call in the calendar year.

b) The senior immigration officer accepting the Crew List is responsible for arranging for an immigration officer to:

i) examine for admission all crew members not previously examined and identified as Canadian citizens or permanent residents, and complete any necessary documentation for control purposes;

ii) place the notation "surrendered", sign and date-stamp both copies of the Crew List;

iii) retain copy 2 (yellow) of the Crew List, with any control documents attached on local files for a period of one year.

c) The master, or transportation company representative, may retain copy 3 (pink) of the Crew List.

1.46 FOREIGN FISHING VESSELS - COASTAL FISHERIES PROTECTION ACT

1) Definition - "Foreign Fishing Vessel"

The Coastal Fisheries Protection Act (CFPA) administered by the Department of Environment, Fisheries Division, defines "foreign fishing vessel" as a fishing vessel that is not a Canadian fishing vessel.

2) Entry of Crew Members

a) The Minister of Environment has designated the area directors of that Department in Halifax, N.S., St. John's, Nfld., and Vancouver, B.C., as officers who may grant permission to foreign fishing vessels to enter Canadian ports.

b) An immigration officer may authorize shore leave for the crews of foreign fishing vessels which have arrived at Canadian ports of entry. A crew member who becomes ill and requires hospitalization may be granted temporary entry for a specified period and will be documented for control purposes.

3) Customs and Immigration Requirements

The entry of these vessels is subject to the Customs and Immigration laws of Canada. Each time a foreign fishing vessel is issued a permit for entry to a Canadian port, the Fisheries Protection officer authorizing such entry shall notify the Customs and Immigration authorities at the port concerned.

1.47 EXAMINATION OF CREWS

1) Passport and Visa Requirements

a) See IS 22, Passports and Identity or Travel Documents.

b) Visa Requirements

i) Crew members have been exempted from the visa requirements of A9 (see para. 6 of Schedule II of the Regulations), except for citizens of a foreign country with which the Government of Canada has entered into an agreement whereby such members of a crew or persons are required to obtain visas.

ii) Other crew members, including soviet seamen continue to be exempt from normal visitor visa requirements providing they are seeking entry to Canada for purposes outlined in item 6 of Schedule II of the Regulations.

iii) Family members who are accompanying members of a ship's crew are passengers and are subject to normal visa requirements. Where a vessel finds it necessary to make an unscheduled visit to a Canadian port, or there is some other reason why accompanying family members were not able to apply for requisite visas, SIOs are encouraged to consider entry under A19(3).

2) Crew Lists

* a) IMM 200, IMCO FAL Form 5 or Computer Generated Crew Lists

* Canada has accepted the standard form of Crew List (see App. "H") established by the Intergovernmental Maritime Consultative Organization (IMCO) for the recording of the following items of information regarding members of ships' crews: number, name, rank or rating, nationality (citizenship), date and place of birth, and the nature and number of the identity document held by each crew member. The IMCO FAL form 5 and the Crew List IMM 200, as well as computer generated crew lists which are identical in format to these forms, are acceptable. One of these types of forms (in triplicate) must be completed by the master and presented on the arrival of a ship of foreign registration from a port outside Canada or when a ship of Canadian registration leaves a Canadian port for the first time that year. The colour-coded forms in triplicate are available for the people in charge of the vessels. Transportation companies or their agents may order IMM 200 in sufficient quantities to fill the needs of the vessels they represent from local Canada Immigration ports with which they normally have contact.

b) Endorsement of Crew List

Endorsement of the Crew List on first arrival of the ship authorizes crew members to disembark at any port in Canada at which the ship calls, crew members who, with the master's permission in written form, are authorized by an immigration officer to leave the ship at one port and rejoin it at another port during the ship's stay in Canada, should be documented on IMM 1097 and the crew list notated, for control purposes.

3) Entry of Seamen

a) Entry to Join a Ship

When a crew member seeks entry to join a ship in Canada, the examining officer must satisfy himself of the applicant's bona fides. A crew member, as a condition of entry, should be required by an examining officer to join the ship within a limited period of time (R23(e)(viii)).

b) Confirmation by Examining Officer

Where an examining officer is not satisfied with the arrangements made for a seaman to join a ship, he may require confirmation from the ship's agent or the immigration authority at the port where the seaman is to join the ship.

c) Seamen Who Fail to Join Ships

Where a seaman has been granted entry to become a member of a crew and fails to join the ship within a period of time specified as a condition of entry, he is reportable pursuant to A27(2)(j) once the ship leaves the port of entry where he was destined to join the ship.

4) Admission Other Than as a Crew Member

a) i) Crew Members Applying for Admission as Immigrants or Visitors

The master should not include on the Crew List the names of persons who were members of the crew during the voyage but intend to apply immediately on arrival for admission as immigrants or as visitors; he must present such persons as passengers and not as members of the crew proper. Such persons must meet all admission requirements applicable to the status they seek, including possession of a passport, and a visa if required.

ii) Since family members who are accompanying members of the crew are subject to normal visa requirements, they also should not be included on the crew list.

b) Crew Members Who Apply for a Change of Terms and Conditions of Entry (A16(1))

i) Crew members in Canada who apply for a change of terms and conditions of entry under A16(1) should, as a matter of policy, meet all of the requirements they would have been required to meet had they been seeking entry at a port of entry. A16(1) applies to seamen in the same way that it applies to all other visitors.

ii) When granting a change of terms and conditions, the examining officer will immediately amend the Crew List accordingly.

1.48 DOCUMENTATION OF CREWS FOR SHIPS OF FOREIGN REGISTRY

1) Responsibilities of the Master (R53(1))

a) On Arrival from a Port Outside Canada

The master of a ship with a crew of more than ten members shall provide a senior immigration officer with a completed Crew List on arrival in Canada.

b) Crew Changes at Ports in Canada

The master must also deliver copies (yellow and pink) of the Crew list to a senior immigration officer when reporting crew members who are to be discharged, hospitalized, or have deserted in Canada. The master will list in sequence, immediately below the last entry of the Crew List, particulars of crew members signed on at a Canadian port, adding additional sets of the form as required (yellow and pink). There must be no erasures or obliterations on the original list of names and particulars of the crew. Crew members signed on must be added in continuing chronological order by the master. Examining officers should, as a matter of course, ask to see the documentation carried by each crew member signed on in Canada.

c) Crew Members Seeking Temporary Entry to Join Ship

In the case of a crew member who is seeking temporary entry to join ship in Canada, transportation companies are requested to supply each seaman with a letter indicating:

i) full name;

ii) date and place of birth;

iii) identity document particulars;

iv) name and location of ship to which he is destined;

v) that he is a member of the crew of the ship to which he is destined;

vi) name and address of Canadian agent (if any).

Where he has knowledge that a seaman allowed entry to join a ship has failed to do so, the master or agent must immediately report the facts to immigration authorities.

d) On Desertion

See IE 1.49 following.

e) On Final Departure for a Port Outside Canada

The master shall deliver the remaining copies of the completed Crew List to a senior immigration officer on final departure from Canada.

f) Crew Members Being Returned Home by the Transportation Company or Being Left Ashore for Any Reason

When a member of a crew is allowed entry for such purposes as leave beyond the period the ship remains in Canada, medical treatment, hospitalization, or departure for home prior to the ship's leaving Canada, etc., the master of the ship shall make a report with respect to that member of the crew to a senior immigration officer. The crew member should be examined and documented on IMM 1097 for control purposes.

2) Immigration Responsibilities

a) Action by Senior Immigration Officer on Arrival of a Ship in Canada

Immediately upon the arrival of a ship with a crew of more than ten members at a port in Canada, a senior immigration officer will:

i) endorse the Crew List by drawing a line in ink immediately below the last entry, stamp and sign all copies. (Where the ship is destined to a port in Canada, indicate the name of the next port of call beside the port stamp.)

ii) enter the name and address of the Canadian agent in the left-hand vertical margin;

iii) mark an "X" in the "Arrival" box and enter the name of the last port at which the ship will call while in Canada in top right-hand corner and remove original (white) from set;

iv) return copies 2 (yellow) and 3 (pink) to the master;

v) check original against the Look-Out Index and retain it on local office files for a period of one year.

b) Action at Ports Within Canada

On arrival of a ship which has come from another port in Canada, a senior immigration officer or an immigration officer shall endorse the outbound copy of the Crew List by drawing a line in ink immediately below the last port-stamp or entry, as the case may be, then stamping and signing the list. Beside the port-stamp, indicate the name of the next port of call in Canada. The Crew List will be returned to the master for presentation at the next port of call within Canada. One copy should be retained in local office files for a period of one year. For action taken at final port of call in Canada, see 7) following.

c) Great Lakes - St. Lawrence Seaway System

i) The master of a ship, which leaves Canadian waters while en route between two Canadian ports of entry in the Great Lakes - St. Lawrence Seaway system, will not normally be required to supply a new Crew List, provided the ship has not landed at a foreign port. The Crew List carried by such a ship should be documented as in b) above. (The pilot's record will normally show whether a ship has landed at a foreign port.)

ii) This procedure is designed to facilitate ships plying the Great Lakes - St. Lawrence Seaway system and to help immigration officials maintain control of crew members in the system. Please note that the crew of any ship coming to Canada from foreign or international waters, including ships plying the Great Lakes - St. Lawrence Seaway system, may be examined on arrival at a port of entry. A senior immigration officer may demand that the master of such a ship provide a new Crew List (R53(1)). Such action should be taken when the master of a ship has not acted in good faith or an infraction of the Act or Regulations is suspected.

d) Seamen in Inadmissible Class Before Entry Granted

If it appears that a seaman may be in an inadmissible class and has not been granted temporary entry, the examining officer will:

i) where the seaman seeks admission, prepare a report under A20 and refer it immediately to a senior immigration officer; or

ii) seek a Minister's Permit for the period of the stay of the seaman; or

iii) if the application for admission is withdrawn or the seaman indicates he does not wish to seek admission, order the master of the ship to hold and detain the seaman concerned on board the ship during its stay in Canada (A90(2)).

e) Seamen Who Appear to be in an Inadmissible Class After Entry Granted

If it appears, after a seaman has been granted entry, that he may be in an inadmissible class, the following action will be taken:

i) An A27(2) report will be forwarded immediately to the Deputy Minister or his delegate, so that he may determine whether an inquiry should be held or other appropriate action taken;

ii) On the ship's copies of the Crew List only (yellow and pink), the immigration officer will, on the line immediately below the last entry, enter the name of the crew member and make reference to the report;

iii) Immediately under the last entry, a line will be drawn and the officer will date and sign the list.

f) Crew Changes at Ports in Canada

Senior immigration officers will ensure that the Crew List presented by the master when reporting crew members who are to be discharged, hospitalized, or have deserted, correctly reflects these changes by proceeding as follows:

i) On the line following the last entry, indicate the number and the name of the crew members affected, with appropriate comments, e.g., discharged, hospitalized, deserted, etc., with reference to the documentation completed, e.g., IMM 1102, IMM 1097, etc.;

ii) Immediately below the last entry, draw a line in ink, sign and date-stamp all copies, and distribute copies as per IE 1.45 1)e).

3) Crew Requiring Hospitalization or Medical Treatment

a) Documentation on IMM 1097

Crew members left ashore for medical treatment or hospitalization are to be documented on IMM 1097 for control purposes.

b) Action When it is Not Possible to Examine Crew Member

When it is not possible to examine the crew member, the senior immigration officer will ask the agent or master to leave the seaman's book with him and will instruct them to present the crew member for examination immediately upon his release from hospital, at which time he will be documented on IMM 1097. The Crew List will be amended to reflect the change.

c) Verification of Departure

Verification of departure following treatment will be carried out in all cases involving discharged crew members or hospitalized seamen.

4) Crew Signing Off Ships in Canada for Voluntary Return Home

In all cases when a crew member is signed off a ship in Canada for voluntary return home, the senior immigration officer will ensure the following action is taken:

a) Ensure crew members are properly shown as discharged on IMM 200.

b) Complete IMM 1097 when in the opinion of the examining officer such action is considered necessary for control purposes. In the item "Name and Complete Address Where You Can Be Reached in Canada", show the name of the vessel, name and address of the company's agent in Canada, and the date and place where the crew member signed off. In the "Remarks" item, show the name and address of the vessel's owner, as well as the departure flight details for the crew member, i.e., flight number, date, departure point and destination.

c) Forward completed documentation for entry in Data Bank.

5) Change of Terms and Conditions of Stay in Canada

a) See IE 4.

b) Action by Immigration Officer

The immigration officer will, if satisfied, make the appropriate change on the Crew List outlining the terms and conditions of the visit. IMM 1097 must be issued showing the terms and conditions of entry.

c) Crew members Who Remain Beyond Approved Period

Crew members who remain in Canada beyond the period approved by an immigration officer are to be reported under A27(2)(e).

6) Crew Members Destined to Join a Ship in Canada (R22(e)(viii))

IMM 1097 will be completed whenever a crew member seeks temporary entry to join a vessel in Canada. In the item "Name and Complete Address Where You Can Be Reached in Canada", show the name of the vessel, name and address of the Canadian agent, and the date and place where the seaman is to join the ship, as well as the flight number concerned where applicable. In the "Remarks" item, show the name and address of the ship's owner. The seaman will be told to deliver his copy of the IMM 1097 to the master of the ship, to be picked up along with the Crew List on departure for a foreign port.

7) On Departure for a Port Outside Canada

Before a ship leaves Canada, a senior immigration officer will:

a) for foreign fishing vessels, ensure that the provisions of IE 1.46 have been applied;

b) ensure that any infraction has been dealt with;

c) ensure that the Crew List presented by the master correctly reflects all crew changes, including new members who have been signed on in Canada;

d) collect any documents issued to crew members solely for the purpose of verification of departure;

e) draw a line in ink immediately below the last entry on copies 2 and 3 of the Crew List;

f) mark an "X" in the Departure box, stamp, sign, and write "Outbound" in or near the stamp;

g) retain copy 2 on local office files, with any documents collected as in c) above, for a period of one year.

1.49 DESERTING SEAMEN CONTROL

1) Obligation of Carrier

Immediately upon learning of the desertion in Canada of a crew member, the master of the vessel concerned (or a company agent) is required by R53(3)(b) to inform the nearest CIC. Most foreign companies operating in Canadian waters are aware of this requirement through the Transportation Directive system (Directive I-6).

2) Procedure at C.I.C.

When informed of a desertion as in 1) above, a senior immigration officer will:

a) have the master (or company agent) complete two copies of the Crew Index IMM 202 (see App. "I") for each deserting seaman, and ensure that details of the seaman's travel documents, seaman's book, etc., are entered in the appropriate spaces;

i) secure from the master or agent of the vessel concerned, if possible, the deserting seaman's passport, seaman's book, or other document bearing the seaman's photograph;

ii) a master or company agent reluctant to surrender the documents will be encouraged to cooperate and will be assured that the documents will not be retained once they have served their purpose.

b) enter immediately into FOSS through a non-computer based entry (NCB Watch-For) the following details:

i) deserter's full name as entered in the travel document;

ii) date, place and country of birth;

iii) sex;

iv) citizenship.

A remarks transaction should be added showing:

v) name of ship concerned;

vi) date and port of desertion;

vii) CIC name and any file number concerned.

c) mail a copy of the IMM 202 to the address at IE 1.21 1)b);

d) forward a copy of IMM 202, clearly endorsed for CPIC Input, accompanied by a warrant for arrest to the appropriate RCMP Immigration and Passport Section. For Details on CPIC Input, see IC 4;

e) complete form IMM 1306 (see chapter ID 6);

f) forward a copy of the form IMM 202 to the Canadian Immigration Visa Office in the country of the deserting seaman's former residence, or to the area office having jurisdiction over that country (see chapter IS 28).

3) Action by Post Abroad

The visa office, after receiving the IMM 202, will conduct inquiries through sources abroad to determine the deserting seaman's present residence, address or place of employment in Canada or other information which may assist in locating him and will report the results to the originating CIC.

4) Procedure on Surrender or Apprehension

When a deserting seaman surrenders voluntarily or is apprehended, the CIC will:

a) identify through FOSS the CIC at which the documents have been retained, and arrange for these to be forwarded;

b) initiate CPIC cancellation action;

c) initiate cancellation of the FOSS entry by means of an IMM 1306;

d) send a memorandum to the address mentioned in 2)c) above providing:

i) deserter's name;

ii) date and place of birth;

iii) date and place of desertion and name of vessel;

iv) method of locating, i.e., surrender or apprehension and details;

v) whether the deserter married following desertion in Canada;

vi) date of inquiry (if appropriate) and whether detained or released.

5) Deserters Who Have Left Canada

Where there is verification that a seaman who has not surrendered or been apprehended has left Canada, the CIC will:

a) take CPIC cancellation action;

b) cancel the FOSS entry by an IMM 1306; and

c) advise the address in 2)c) above.

6) Inquiries

a) Authority

Deserting seamen arrested pursuant to A103 must be dealt with by inquiry under authority of A28. Those who are not arrested must be reported to the Deputy Minister or his delegate (A27(2) - see Inst. I-27 at IL 3) to determine if an inquiry is necessary, or if a Minister's Permit will be issued.

b) Pertinent Factors

In determining whether or not an inquiry should be held in cases where a report has been received pursuant to A27(2), it has been found that the following considerations are pertinent in arriving at a decision:

i) the circumstances surrounding the desertion, e.g., inebriation or other causes;

ii) whether or not the transportation company or its agents have made satisfactory arrangements for the early removal of the seaman from Canada, or have made arrangements for the seaman to rejoin the ship if it is still in Canada, and the seaman has a legitimate reason for having failed to be on the ship when it left a port of entry, such as accident or illness;

iii) whether or not the seaman has been involved in any criminal or illegal immigration activities aside from his own desertion, or is subject to action through the civil courts.

7) Prosecutions

See Chapter IE 10.

8) Final Disposition

Upon final disposition of the case, a brief summary will be forwarded to the address shown at 2)c) above.

1.50 ON... SPARES

Employment and Immigration Canada Emploi et Immigration Canada

IE 1 App. A

NOTICE OF LIABILITY TO CONVEY AND/OR PAY REMOVAL AND DETENTION COSTS

AVIS RELATIF À L'OBLIGATION DE TRANSPORTER LA PERSONNE CONCERNÉE ET (OU) DE PAYER SES FRAIS DE RENVOI ET DE DÉTENTION

(See IE 1 31 2)a))

(Name & Address of Transportation Company)
(Nom et adresse du transporteur)

Complete CIC Address – *Adresse complète du CIC*	
CIC File No. – *N° de référence du CIC*	Date

IE 1 APP. A

CONCERNING: (Full Name of Person Concerned)
CONCERNANT: (Nom complet de la personne concernée) _____

WHO ARRIVED ON YOUR:
QUI EST ARRIVÉ PAR:

☐ FLIGHT NO. *LE VOL N°* _____ ☐ BUS NO. *L'AUTOBUS N°* _____ ☐ TRAIN NO. *LE TRAIN N°* _____ ☐ NAME OF VESSEL *NOM DU NAVIRE* _____

ON *LE* _____ (D-J M Y-A) TICKET SERIAL NO. *N° DE SÉRIE DU BILLET* _____ ☐ ATTACHED *CI-JOINT* ☐ NOT AVAILABLE *NON DISPONIBLE*

YOUR ATTENTION IS DIRECTED TO SECTIONS 85 AND 86 OF THE IMMIGRATION ACT, AS AMENDED,
VEUILLEZ VOUS REPORTER AUX ARTICLES 85 ET 86 DE LA LOI SUR L'IMMIGRATION, TELS QUE MODIFIÉS,

☐ IN VIEW OF THE FACT THAT THE PERSON NAMED ABOVE IS THE SUBJECT OF.
COMME LA PERSONNE PRÉCITÉE FAIT L'OBJET:

☐ A Deportation Order on Form IMM 1215; *d'une mesure d'expulsion (IMM 1215);*
☐ An Exclusion Order on Form IMM 1214; *d'une mesure d'exclusion (IMM 1214);*
☐ A Rejection Order on Form IMM 1217; *d'une mesure de refoulement (IMM 1217);*
☐ A Direction to Return to the United States Pursuant to Subsection _____ of the Act, on Form IMM 1237, IMM 1238 or IMM 5010, as applicable:
d'une directive l'enjoignant de retourner aux États-Unis conformément au paragraphe _____ de la Loi (IMM 1237, IMM 1238 ou IMM 5010, selon le cas);

OR/OU

☐ IN VIEW OF THE FACT THAT THE PERSON NAMED ABOVE IS ALLOWED TO LEAVE CANADA PURSUANT TO SUBSECTION _____ OF THE IMMIGRATION ACT, (FORM IMM 1282);
COMME LA PERSONNE PRÉCITÉE EST À QUITTER LE CANADA CONFORMÉMENT AU PARAGRAPHE _____ DE LA LOI SUR L'IMMIGRATION (IMM 1282);

☐ You are hereby given notice of liability for removal and detention costs;
vous êtes par les présentes avisé que vous devez payer les frais de renvoi et de garde;

☐ You are hereby ordered to convey or cause the person named above to be conveyed to
vous êtes par les présentes enjoint de transporter ou de faire transporter la personne précitée à

_____

Signature of Immigration Officer or Senior Immigration Officer
Signature de l'agent d'immigration ou de l'agent principal

WHEN TRANSPORTATION ARRANGEMENTS HAVE BEEN FINALIZED, PLEASE COMPLETE THE FOLLOWING STATEMENT AND RETURN COPY 2 (PINK) OF THIS FORM TO THE ADDRESS SHOWN ABOVE:
UNE FOIS RÉGLÉES LES MODALITÉS DE TRANSPORT, VEUILLEZ REMPLIR LA DÉCLARATION SUIVANTE ET RENVOYER LA FEUILLE 2 (ROSE) DU PRÉSENT FORMULAIRE À L'ADRESSE INDIQUÉE CI-DESSUS:

STATEMENT OF CONVEYANCE – *DÉCLARATION RELATIVE AU TRANSPORT*
We have arranged to have the person named above conveyed to
Nous avons pris des dispositions pour que la personne précitée soit transportée à _____ (Destination)

Leaving – *De* _____ (Port of Departure – *Point de départ*) on – *par* _____ (Flight Number or Name of Vehicle – *N° du vol ou nom du véhicule*) on – *le* _____ (Date)

At _____ Hours. Removal and detention costs, if applicable, will be borne by this company.
À *H.* *Ledit transporteur assumera les frais de renvoi et de garde, s'il y a lieu.*

Name of Transportation Company *Nom du transporteur*	Signature of Company Official *Signature du représentant du transporteur*	Date

If, pursuant to paragraph 85(1)(a) of the Immigration Act, conveyance is to be to a country requiring approval of the Minister of Employment and Immigration, complete the pertinent items hereunder and return both copies 1 (white) and 2 (pink) to the above address for appropriate signature. Copy 1 will be returned to you following application of signatures. – *Si, conformément à l'alinéa 85(1)a) de la Loi sur l'immigration, le transport doit se faire vers un pays devant être approuvé par le Ministre de l'Emploi et de l'Immigration, veuillez remplir les espaces pertinents ci-dessous et renvoyer les deux feuilles, c.-à-d. 1 (blanche) et 2 (rose), à l'adresse ci-dessous pour que les personnes compétentes les signent. La feuille 1 vous sera ensuite renvoyée.*

It is agreed by the parties concerned that the person concerned may be conveyed to
Il est convenu par les intéressés que la personne concernée peut être transportée à _____
Name of Country – *Nom du pays*

Signature & Title of Company Official *Signature et titre du représentant du transporteur*	Date	Signature of the Minister or his Delegate *Signature du Ministre ou de son délégué*	Date

NOTE: For a greater understanding of the obligations of transportation companies under the Immigration Act, write to Immigration HQ, Ottawa, Ontario K1A 0J9 for a free set of transportation directives.
NOTA: Si vous désirez être mieux informé des obligations que doivent remplir les transporteurs aux termes de la Loi sur l'immigration, veuillez écrire à l'Administration centrale d'Immigration Canada à Ottawa (Ontario) K1A 0J9, pour obtenir une série gratuite des directives concernant le transport.

IMM 1216 EF-P (01-89) B THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

Canada 03-90 **TRANSPORTATION COMPANY**
POUR LE TRANSPORTEUR

PART IV

OBLIGATION OF TRANSPORTATION COMPANIES

85. (1) SUBJECT TO SUBSECTION (2), A TRANSPORTATION COMPANY THAT HAS BROUGHT A PERSON TO CANADA SHALL CONVEY THAT PERSON OR CAUSE THAT PERSON TO BE CONVEYED.

(a) TO THE COUNTRY FROM WHICH THAT PERSON CAME TO CANADA, OR TO SUCH OTHER COUNTRY AS THE MINISTER MAY APPROVE AT THE REQUEST OF THE COMPANY, IN THE CASE OF A PERSON WHO IS ALLOWED TO LEAVE CANADA PURSUANT TO SUBSECTION 20(1) OR 23(4) OR REQUIRED TO LEAVE CANADA BY REASON OF THE MAKING OF A REJECTION ORDER.

(b) TO THE UNITED STATES, IN THE CASE OF A PERSON WHO IS REQUIRED TO LEAVE CANADA BY REASON OF THE MAKING OF A DIRECTION TO RETURN TO THAT COUNTRY PURSUANT TO SUBSECTION 20(2), 23(5) OR 43(4); OR

(c) TO SUCH COUNTRY AS IS DETERMINED PURSUANT TO SUBSECTION 52(2) OR (3) IN THE CASE OF A PERSON WHO IS REQUIRED TO LEAVE CANADA BY REASON OF THE MAKING OF A REMOVAL ORDER.

(2) WHERE A PERSON REFERRED TO IN SUBSECTION (1) HAS COME TO CANADA THROUGH THE UNITED STATES AND THAT COUNTRY REFUSES TO ALLOW THAT PERSON TO RETURN OR TO BE RETURNED TO IT, THE TRANSPORTATION COMPANY THAT BROUGHT THE PERSON TO THE UNITED STATES SHALL CONVEY HIM OR CAUSE HIM TO BE CONVEYED.

(a) IN THE CASE OF A PERSON REFERRED TO IN PARAGRAPH (1)(a) OR (b), TO THE COUNTRY FROM WHICH THE PERSON CAME TO THE UNITED STATES OR TO SUCH OTHER COUNTRY AS MAY BE APPROVED BY THE MINISTER AT THE REQUEST OF THE TRANSPORTATION COMPANY; AND

(b) IN THE CASE OF A PERSON REFERRED TO IN PARAGRAPH (1)(c), TO SUCH COUNTRY OTHER THAN THE UNITED STATES AS IS DETERMINED PURSUANT TO SUBSECTION 52(2) OR (3).

86. (1) WHERE, PURSUANT TO SECTION 85, A TRANSPORTATION COMPANY IS REQUIRED TO CONVEY OR CAUSE TO BE CONVEYED ANY PERSON WHO HAS NOT BEEN GRANTED ADMISSION, IT IS LIABLE TO PAY ALL REMOVAL AND DETENTION COSTS OF THE PERSON UNLESS THE PERSON AT THE TIME OF ARRIVAL IN CANADA WAS IN POSSESSION OF A VALID AND SUBSISTING VISA.

(2) WHERE ANY PERSON WHO IS HELD IN DETENTION FOR AN EXAMINATION OR INQUIRY UNDER THIS ACT IS SUBSEQUENTLY GRANTED ADMISSION, THE TRANSPORTATION COMPANY THAT BROUGHT THAT PERSON TO CANADA IS LIABLE TO PAY ALL DETENTION COSTS OF THE PERSON UNLESS THE PERSON AT THE TIME OF ARRIVAL IN CANADA WAS IN POSSESSION OF A VALID AND SUBSISTING VISA.

(3) A TRANSPORTATION COMPANY IS NOT LIABLE TO PAY THE REMOVAL OR DETENTION COSTS OF ANY PERSON WHO IS ORDERED REMOVED FROM OR IS DETAINED IN, CANADA AFTER HAVING BEEN GRANTED ADMISSION, UNLESS THAT PERSON IS A PERSON REFERRED TO IN SECTION 87 OR CAME INTO CANADA AS A MEMBER OF A CREW AND, WITHOUT THE APPROVAL OF AN IMMIGRATION OFFICER, FAILED TO BE ON THE VEHICLE WHEN IT LEFT A PORT OF ENTRY.

PARTIE V

OBLIGATIONS DES TRANSPORTEURS

85. (1) SOUS RÉSERVE DU PARAGRAPHE (2), LE TRANSPORTEUR QUI A AMENÉ UNE PERSONNE AU CANADA EST RESPONSABLE DE SON TRANSPORT À DESTINATION:

(a) DU PAYS D'OÙ ELLE EST ARRIVÉE, OU DU PAYS APPROUVÉ PAR LE MINISTRE À LA DEMANDE DU TRANSPORTEUR, DANS LE CAS D'UNE PERSONNE QUI EST AUTORISÉE À QUITTER LE CANADA EN VERTU DES PARAGRAPHES 20(1) OU 23(4) OU QUI EST FORCÉE DE LE QUITTER PAR SUITE D'UNE MESURE DE REFOULEMENT;

(b) DES ÉTATS-UNIS, DANS LE CAS D'UNE PERSONNE À QUI IL A ÉTÉ ORDONNÉ DE RETOURNER DANS CE PAYS AUX TERMES DES PARAGRAPHES 20(2), 23(5) OU 43(4);

(c) DU PAYS DÉSIGNÉ CONFORMÉMENT AUX PARAGRAPHES 52(2) OU (3), DANS LE CAS D'UNE PERSONNE QUI DOIT QUITTER LE CANADA PAR SUITE D'UNE MESURE DE RENVOI.

(2) SI LES ÉTATS-UNIS REFUSENT DE RECEVOIR UNE PERSONNE ENTRÉE AU CANADA PAR CE PAYS, LE TRANSPORTEUR QUI L'A AMENÉE AUX ÉTATS-UNIS EST RESPONSABLE DE SON TRANSPORT À DESTINATION:

(a) DU PAYS D'OÙ ELLE EST ARRIVÉE AUX ÉTATS-UNIS OU DE TOUT AUTRE PAYS APPROUVÉ PAR LE MINISTRE À LA DEMANDE DU TRANSPORTEUR, S'IL S'AGIT D'UNE PERSONNE VISÉE AUX ALINÉAS (1)(a) OU (b);

(b) DU PAYS AUTRE QUE LES ÉTATS-UNIS DÉSIGNÉ CONFORMÉMENT AUX PARAGRAPHES 52(2) OU (3), S'IL S'AGIT D'UNE PERSONNE VISÉE À L'ALINÉA (1)(c).

86. (1) LE TRANSPORTEUR EST RESPONSABLE DES FRAIS DE RENVOI ET DE GARDE DES PERSONNES QUI SE SONT VU REFUSER L'ADMISSION ET QU'IL EST TENU DE TRANSPORTER OU DE FAIRE TRANSPORTER AUX TERMES DE L'ARTICLE 85 SAUF SI, À LEUR ARRIVÉE AU CANADA, CELLES-CI ÉTAIENT MUNIES D'UN VISA EN COURS DE VALIDITÉ.

(2) LE TRANSPORTEUR EST RESPONSABLE DES FRAIS DE GARDE - AUX FINS D'INTERROGATOIRE OU D'ENQUÊTE AVANT ADMISSION - DES PERSONNES QU'IL A AMENÉES AU CANADA ET QUI ONT ÉTÉ ULTÉRIEUREMENT ADMISES SAUF SI, À LEUR ARRIVÉE, CELLES-CI ÉTAIENT MUNIES D'UN VISA EN COURS DE VALIDITÉ.

(3) LE TRANSPORTEUR N'EST PAS RESPONSABLE DES FRAIS DE RENVOI OU DE GARDE EXPOSÉS APRÈS L'ADMISSION, SAUF CAS PRÉVU À L'ARTICLE 87 OU CAS DU RESPONSABLE OU MEMBRE DU PERSONNEL D'UN VÉHICULE QUI, SANS L'AUTORISATION DE L'AGENT D'IMMIGRATION, A OMIS DE REGAGNER LE VÉHICULE LORS DE SON DÉPART D'UN POINT D'ENTRÉE

(Reference at 1.35 2))

IE 1
App. B

Employment and Immigration Canada Emploi et Immigration Canada

REPORT OF REMOVAL AND DETENTION EXPENSES
RAPPORT SUR LES FRAIS DE RENVOI ET DE DÉTENTION

Local File No
N° de réf. du bureau local

HQ File No
N° de réf. de l'Adm. centr.

Account No. — *N° de compte*

Date

NOTE: ● This form is to report expenses and is not to be used as a billing document.
NOTA: *La présente formule sert à présenter un rapport des dépenses et ne constitue pas une facture.*

- Original and 1 copy to Director Accounting Operations, Financial Services, E&I, HQ.
  Transmettre l'original et un double au directeur des Opérations comptables, Services financiers, E&I, Administration centrale.
- A separate form required for each person or family.
  Il faut remplir une formule pour chaque personne ou famille.
- Under "Remarks" state briefly any unusual or pertinent facts which may be helpful in assessing responsibility and the name and address of responsible transportation company, if applicable.
  Sous la rubrique "Observations", inscrivez brièvement tous les détails inhabituels ou pertinents qui peuvent aider à établir la responsabilité des parties en cause ainsi que le nom et l'adresse de la compagnie de transport, s'il y a lieu.

Surname — *Nom de famille* Given Names — *Prénoms*

Date From *Du*	Date To *A*	Particulars of Expenses *État des dépenses*	Detention *Détention* No. of days *Nombre de jours*	Detention *Détention* Rate *Taux* $	Detention *Détention* Rate *Taux* ¢	Amount *Montant* $	Amount *Montant* ¢
					TOTAL		

Certified Correct — *Attesté exact*

Senior Immigration Officer — *Agent d'immigration supérieur*

REMARKS — *OBSERVATIONS*

03-90

(See I.E. 1.35 3))

FG-2139

Employment and Immigration Canada | Emploi et Immigration Canada

TRANSPORTATION ORDER
BON DE TRANSPORT

ORDER CLASSIFICATION - *CATÉGORIE DU BON*

☐ REGULAR *ORDINAIRE* ☐ RECOVERABLE *RÉCUPÉRABLE* ☐ A.P. *P.I.P.*

ORDER NO. *Nº DU BON*: ▶ 189616 ◀

THIS ORDER MUST BE EXCHANGED AT THE RAILWAY, STEAMSHIP, AIRLINE OR BUS OFFICE FOR TICKET(S) BEFORE GOING ABOARD.

IL FAUT ÉCHANGER LE PRÉSENT BON CONTRE DES BILLETS, AUX GUICHETS DE LA COMPAGNIE DE TRANSPORT FERROVIAIRE, MARITIME, AÉRIEN OU ROUTIER, AVANT DE S'EMBARQUER.

TO: (TRANSPORTATION CO.) *À (COMPAGNIE DE TRANSPORT)*	FROM: (ISSUING OFFICE) - *(BUREAU ÉMETTEUR) DE*	DATE OF ISSUE *DATE D'ÉMISSION* DATE OF EXPIRY *DATE D'EXPIRATION*

PLEASE ISSUE TRANSPORTATION DETAILED HEREUNDER - *VEUILLEZ DÉLIVRER LES BILLETS DE TRANSPORT INDIQUÉS CI-DESSOUS*

ISSUE TO *DÉLIVREZ À* (NAME OF RECIPIENT) — *(NOM DU BÉNÉFICIAIRE)* | S.I. NO. - *Nº D'ASS. SOC.*

FROM: POINT OF DEPARTURE - *DE: POINT DE DÉPART* | TO: DESTINATION - *À: DESTINATION* | NTP/CMMP AUTHORIZATION NO *PNF/PMMC - Nº D'AUTORISATION*

NO. OF TICKETS *NOMBRE DE BILLETS*	CLASS OF SERVICE REQUIRED *CLASSE DE TRANSPORT DÉSIRÉE*	ONE WAY OR RETURN *ALLER OU ALLER/RETOUR*	TICKET NO. *Nº DU BILLET*	NAME OF PERSON USING TICKET *(NOM DU BÉNÉFICIAIRE)*	RATE *TARIF*	TOTAL
				VOID		

ISSUING OFFICE - *BUREAU ÉMETTEUR* | P/S NO. - *Nº DE P/S* | TICKET(S) RECEIVED - *BILLETS REÇUS* | TOTAL

AUTHORIZED SIGNATURE *AUTORISÉE* | RECIPIENT'S SIGNATURE *DU BÉNÉFICIAIRE*

TRANSPORTATION COMPANY PLEASE NOTE

- When requested accommodation is not available, Agent should return the Order to the bearer and instruct him to return to the issuing officer for further direction.
- Ticket Agents shall not under any circumstances refund the value of unused tickets obtained by Order or surrender cash in lieu of accommodation requested.
- Any alteration to original entry cancels this Order.
- Return this copy of Order with invoice to issuing office shown above.

AVIS À LA COMPAGNIE DE TRANSPORT

- *Si la classe de transport désirée n'est pas disponible, l'agent doit remettre le bon à son bénéficiaire et lui dire de demander de nouvelles instructions au fonctionnaire du bureau émetteur.*
- *Les préposés aux billets ne devront, sous aucun prétexte, rembourser la valeur des billets intacts obtenus par bon ou verser de l'argent au lieu du service désiré.*
- *Toute modification aux inscriptions initiales annule ce bon.*
- *Retourner la présente copie du bon avec votre facture au bureau émetteur ci-dessus.*

COMPLETE THIS SECTION FOR RECOVERABLE EXPENSE ONLY
À REMPLIR DANS LE CAS DE DÉPENSES RÉCUPÉRABLES SEULEMENT

EMPLOYER - *EMPLOYEUR*

ADDRESS - *ADRESSE*

ORDER NO. - *Nº DU BON*

E.&I. 2846 (6-71) Canada

TRANSPORTATION CO. — COMPAGNIE DE TRANSPORT

IE 1
APP. "D"

Employment and Immigration Canada | Emploi et Immigration Canada

GUARANTEE BOND
CAUTIONNEMENT

(Subsection 92(1) of the Immigration Act)
(Paragraphe 92(1) de la Loi sur l'Immigration)

LET IT BE KNOWN BY THESE PRESENTS that we _____

_____

and _____

_____

(hereinafter called the transportation company) are hereby held and firmly bound unto Her Majesty the Queen in right of Canada, Her Heirs and successors (hereinafter called Her Majesty) in the penal sum of

_____

Dollars ($ _____) in lawful money of Canada, for which payment well and truly to be made, we bind ourselves jointly and severally and each of our Successors firmly by these presents.

Sealed with our seals and dated this _____

day of _____ A.D. 19 ____ .

WHEREAS under subsection 92(1) of the Immigration Act (hereinafter called the Act) the Deputy Minister of Employment and Immigration may require any transportation company to deposit in prescribed manner such sum of money or other security as he deems necessary as a guarantee that the transportation company will pay all fines and other amounts for which such transportation company may become liable under the Act.

THE CONDITION of the above written obligation is such that if the said transportation company or its assigns do and shall pay all fines and other amounts for which it may become liable under the Act or Regulations, or if the Deputy Minister so directs, then the above written obligation shall be void and of no effect, but otherwise shall be and remain in full force and virtue.

It is understood and agreed that where the said transportation company becomes liable to pay any fine or other amount under the Act or Regulations this obligation shall be enforceable by Her Majesty against the said transportation company if the Minister of Employment and Immigration so directs and authorizes, and the penal sum payable in virtue of this obligation shall be the amount of the fine or other amount the said transportation company becomes liable to pay, up to

but not exceeding the maximum sum of _____

_____ Dollars ($ _____) in lawful money of Canada.

IN WITNESS WHEREOF the said _____

_____ and
(actual name(s) of signator(s))

_____

have hereunto their hands and seals subscribed and set the day of the year above written.

Signed, Sealed and Executed)

in the presence of)
)
)

_____

_____

SACHEZ que nous _____

_____

et _____

_____

(ci-après appelé le transporteur) reconnaissons, par les présentes, être débiteurs conjoints et solidaires, ainsi que chacun de nos successeurs, envers Sa Majesté la Reine du chef du Canada (ci-après appelée Sa Majesté), ses héritiers et successeurs, de la somme de

_____ *dollars ($* _____ *) en monnaie ayant cours légal au Canada, tenant lieu de débit.*

Document que nous avons scellé et fait ce _____

_____ *jour de* _____

19 ____ .

ATTENDU QUE, en vertu du paragraphe 92(1) de la Loi sur l'immigration (ci-après appelée la Loi), le sous-ministre de l'Emploi et de l'Immigration peut adresser des instructions à tout transporteur l'obligeant à déposer, dans la forme prescrite, une somme d'argent ou tout autre gage qu'il estime approprié pour garantir le paiement des amendes et autres frais qui pourraient être mis à sa charge en vertu de la Loi.

PAR CONSÉQUENT, la condition de l'obligation ci-dessus est telle que, si ledit transporteur ou son représentant paie les amendes et autres frais qui pourraient être mis à sa charge en vertu de la Loi ou du Règlement, ou si le Sous-ministre l'ordonne, elle devient alors nulle et de nul effet, sinon elle aura toujours force exécutoire.

Il est entendu et convenu que, lorsque ledit transporteur doit payer les amendes et les frais qui pourraient être mis à sa charge en vertu de la Loi ou du Règlement, Sa Majesté rend exécutoire cette obligation contre ledit transporteur si le ministre de l'Emploi et de l'Immigration l'ordonne et l'autorise, et la somme tenant lieu de débit, payable en vertu de cette obligation, sera le montant de l'amende ou tous autres frais que ledit transporteur doit payer, le maximum ne devant pas dépasser _____

_____ *dollars ($* _____ *) en monnaie ayant cours légal au Canada.*

EN FOI DE QUOI, ledit _____

_____ *et*
(Nom effectif des signataires)

_____

ont signé et scellé de leur main le présent document et sont convenus du jour et de l'année indiqués ci-dessus.

Signé, scellé et délivré

en présence de)
)
)

_____

_____

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION

FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

06-90

IMM 1260 (3-90) B

Canada

IE 1
APP. "E"

Employment and Immigration Canada | Emploi et Immigration Canada

GUARANTEE BOND
CAUTIONNEMENT

(Subsection 92(2) of the Immigration Act)
(Paragraphe 92(2) de la Loi sur l'Immigration)

LET IT BE KNOWN BY THESE PRESENTS that we _____

_____

and _____

_____

(hereinafter called the transportation company) are hereby held and firmly bound unto Her Majesty the Queen in right of Canada, Her Heirs and Successors (hereinafter called Her Majesty), in the penal sum of

_____

Dollars ($ _____) in lawful money of Canada, for which payment well and truly to be made, we bind ourselves jointly and severally and each of our Successors firmly by these presents.

Sealed with our seals and dated this _____

day of _____ A.D. 19 ____ .

WHEREAS under subsection 92(2) of the Immigration Act (hereinafter called the Act) the Deputy Minister, where a vehicle owned or operated by a transportation company that has not deposited a sum of money or other security pursuant to a direction issued under subsection 92(1) enters Canada, may direct the master of the said vehicle or the said transportation company to deposit such sum of money or other security as he deems necessary as a guarantee that the transportation company will pay all fines and other amounts for which the transportation company may become liable under the Act in respect of that vehicle.

THE CONDITION of the above written obligation is such that, if the said transportation company or its assigns do and shall pay all fines and other amounts for which it may become liable under the Act or Regulations, or if the Deputy Minister so directs, then the written obligation shall be void and of no effect, but otherwise shall be and remain in full force and virtue.

It is understood and agreed that where the said transportation company becomes liable to pay any fine or other amount under the Act or Regulations, this obligation shall be enforceable by Her Majesty against the said transportation company and the penal sum payable in virtue of the obligation shall be the amount of the fine or other amount the said transportation company becomes liable to pay, up to but not

exceeding the maximum sum of _____

_____ Dollars ($ _____) in lawful money of Canada.

IN WITNESS WHEREOF the said _____

_____ and
(actual name(s) of signator(s))

_____

have hereunto their hands and seals subscribed and set the day of the year above written.

Signed, Sealed and Executed)

in the presence of)
)
)

_____

_____

SACHEZ QUE nous _____

_____

et _____

_____

(ci-après appelé le transporteur) reconnaissons, par les présentes, être débiteurs conjoints et solidaires, ainsi que chacun de nos successeurs, envers Sa Majesté la Reine du chef du Canada (ci-après appelée Sa Majesté), ses héritiers et successeurs, de la somme de

_____ *dollars ($* _____ *) en monnaie ayant*

cours légal au Canada, tenant lieu de débit.

Document que nous avons scellé et fait ce _____

_____ *jour de* _____

19 ____ .

ATTENDU QUE, en vertu du paragraphe 92(2) de la Loi sur l'immigration (ci-après appelée la Loi), le Sous-ministre peut adresser des instructions au responsable d'un véhicule ou au transporteur, qu'il soit propriétaire ou exploitant du véhicule, l'obligeant à déposer une somme d'argent ou autre gage qu'il estime approprié pour garantir le paiement, par le transporteur, des amendes et frais qui pourraient, du fait du véhicule, être mis à sa charge en vertu de la Loi, et ce au cas où le transporteur n'aurait pas effectué de dépôt conformément aux instructions visées au paragraphe 92(1).

PAR CONSÉQUENT, la condition de l'obligation ci-dessus est telle que, si ledit transporteur ou son représentant paie toutes les amendes et autres frais qui pourraient être mis à sa charge en vertu de la Loi ou du Règlement, ou si le Sous-ministre l'ordonne, elle devient alors nulle et de nul effet, sinon elle aura toujours force exécutoire.

Il est entendu et convenu que, lorsque ledit transporteur doit payer les amendes et les frais qui pourraient être mis à sa charge en vertu de la Loi ou du Règlement, Sa Majesté rend exécutoire cette obligation contre ledit transporteur, et la somme tenant lieu de débit, payable en vertu de cette obligation, sera le montant de l'amende ou tous autres frais que ledit transporteur doit payer, le

maximum ne devant pas dépasser _____

_____ *dollars ($* _____ *) en monnaie ayant cours légal au Canada.*

EN FOI DE QUOI, ledit _____

_____ *et*
(nom effectif des signataires)

_____

ont signé et scellé de leur main le présent document et sont convenus du jour et de l'année indiqués ci-dessus.

Signé, scellé et délivré

en présence de)
)
)

_____

_____

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION

FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

06-90

IMM 1261 (3-90) B

Canada

Employment and Immigration Canada Emploi et Immigration Canada

IE 1
App. "F"

CANADA IMMIGRATION
OFFICIAL RECEIPT
IMMIGRATION ACT SECTION 92

IMMIGRATION CANADA
REÇU OFFICIEL
LOI SUR L'IMMIGRATION ARTICLE 92

(See 1.40 5)a)i))

181010

NAME OF CIC / PORT OF ENTRY AND FILE NO. - *NOM DU CIC / DU POINT D'ENTRÉE ET N° DE RÉF*	NHQ FILE NO. (IF KNOWN) - *N° DE RÉF DE LAC (S'IL EST CONNU)*	DATE D - J / M / Y - A

THE SUM OF / *LA SOMME DE* _____ DOLLARS / *DOLLARS* [$ _____] WAS RECEIVED FROM / *A ÉTÉ DÉPOSÉE PAR*

_____ ON THIS / *CE* _____ DAY / *JOUR*

OF / *DE* _____ 19___ FOR / *POUR* _____

VOID

SIGNATURE OF IMMIGRATION OFFICER - *SIGNATURE DE L'AGENT D'IMMIGRATION*

POWER OF ATTORNEY
POWER OF ATTORNEY WHEN GIVEN BY AN INCORP. CO.

Know all persons by these presents that the

_____
(FULL NAME OF INCORPORATED COMPANY)

_____

of _____
(FULL ADDRESS)

_____

in the Province of _____

has made and appointed and by these presents does make and appoint:

_____
(NAME OF ATTORNEY)

of _____
(FULL ADDRESS)

_____

as its true and lawful attorney unless it revokes this power-of-attorney by giving notice in writing to the Deputy Receiver General, Ottawa, to receive from the Receiver General for Canada all such sums of money as are now due, or may hereafter become due and payable to it on the order of the Canada Employment and Immigration Commission of the Government of Canada relative to the above-noted deposit, it hereby ratifying and confirming and agreeing to ratify and confirm all that its said attorney may do by virtue hereof.

In witness whereof, the _____

_____
(FULL NAME OF INCORPORATED COMPANY)

has hereunto affixed its corporate seal attested under the hands of its proper officers in that behalf,

at _____

this _____ day of _____ 19___.
(DATE) (MONTH)

EXECUTED IN THE PRESENCE OF: _____ SIGNATURE — AFFIX COMPANY SEAL HERE

_____ TITLE

_____ SIGNATURE

_____ TITLE

PROCURATION
PROCURATION DONNÉE PAR UNE SOCIÉTÉ CONSTITUÉE

Sachez par les présentes que la société

_____
(RAISON SOCIALE AU COMPLET)

_____

_____
(ADRESSE AU COMPLET)

_____

province _____

nomme par les présentes:

_____
(NOM DU MANDATAIRE)

_____
(ADRESSE AU COMPLET)

_____

son mandataire autorisé à recevoir du Receveur général du Canada, à moins de révocation de la présente par avis écrit du sous-receveur général, toutes sommes d'argent qui lui sont ou seront dues et payables sur l'ordre de la Commission de l'Emploi et de l'Immigration du Canada, gouvernement du Canada, relativement au dépôt susmentionné. Par les présentes, la société ratifie et confirme tout ce que le mandataire pourra faire en vertu de ladite procuration.

En foi de quoi la société _____

_____
(RAISON SOCIALE AU COMPLET)

a apposé aux présentes son sceau officiel, attesté par la signature de ses agents autorisés,

à _____

le _____ 19___
(DATE)

SIGNÉ EN PRÉSENCE DE: _____ *SIGNATURE* — *SCEAU DE LA SOCIÉTÉ*

_____ *TITRE*

_____ *SIGNATURE*

_____ *TITRE*

NOTE: 1. A Power of attorney given by an incorporated company must be signed by the president and secretary or secretary-treasurer and their titles shown. If it is signed by other officers, a copy of the by-law or resolution of the board of directors pursuant to which the individuals witnessing the affixing of the seal on behalf of the corporation were authorized to so witness (i) submitted over the seal of the corporation witnessed by the secretary or secretary-treasurer, (ii) certified to be a true copy of the resolution or by-law, and (iii) certified to have been in effect on the date the power of attorney was made, must accompany the power of attorney.

2. No additions or alterations in the text of this form may be made.

T-156134-B of January 4, 1935 directs that "all powers of attorney shall be in a form approved by the Department of Justice."

THIS FORM HAS BEEN ESTABLISHED BY
THE MINISTER OF EMPLOYMENT AND IMMIGRATION

REMARQUES: 1. *Une procuration d'une société incorporée doit être signée par le président et par le secrétaire ou le secrétaire-trésorier avec indication de leur titres. Si elle est signée par d'autres directeurs, il faut annexer copie du règlement ou de la résolution du conseil d'administration autorisant les personnes ayant attesté l'apposition du sceau pour le compte de la corporation à agir à ce titre (i) présentée sous le sceau de la corporation attesté par le secrétaire ou le secrétaire-trésorier de la corporation, (ii) certifiée comme étant une copie conforme de la résolution ou du règlement, et (iii) certifiée comme étant en vigueur à la date ou la procuration a été donnée*

2. *Aucune addition ou modification au texte de la présente formule n'est permise.*

Le T-156134-B du 4 janvier 1935 prescrit que "toutes les procurations doivent être conformes à la formule approuvée par le ministère de la Justice"

FORMULAIRE ÉTABLI PAR LE MINISTRE
DE L'EMPLOI ET DE L'IMMIGRATION

Canada

IMM 410 EP-P (10-88) B

03-90

DEPOSITOR - *LE DÉPOSANT* 1

Employment and Immigration Canada Emploi et Immigration Canada

CANADA IMMIGRATION

REQUISITION FOR REFUND/FORFEITURE

COMPLETE IN TRIPLICATE
COPIES 1, 2 FOR CHIEF REVENUE ACCOUNTING
Accounting Operations Directorate
Finance & Administration,
Canada Employment & Immigration Commission,
Ottawa, Ontario, K1A 0J9
3 for File

IMMIGRATION CANADA

DEMANDE DE REMBOURSEMENT/CONFISCATION

REMPLIR EN TROIS EXEMPLAIRES
EXEMPL. 1 ET 2 POUR LE CHEF DE LA COMPT. DU REVENU
Directorat des opérations comptables
Finances et Administration
Commission de l'Emploi et de l'Immigration
du Canada, Ottawa (Ontario) K1A 0J9
3 pour les dossiers

ACT AND REGULATIONS — *LOI ET RÉGLEMENT*

For deposits taken under sections 18, 23, 92 and 103 of the Immigration Act, see instruments I-12, I-25 and I-28 for delegations of authority.

Pour les gages déposés aux termes des articles 18, 23, 92 et 103 de la Loi sur l'immigration, veuillez vous reporter aux documents officiels I-12, I-25 et I-28 pour les délégations de pouvoirs.

CIC and Province — *CIC et province*

File No. — *Référence*

BOND/DEPOSIT — *CAUTIONNEMENT/DÉPÔT*

Receipt No. — *Reçu nº*	Date of Bond/Deposit — *Date du cautionnement/dépôt*	Amount — *Montant*

Deposited by — *Déposé par*

On Behalf of — *Au nom de*

Under Section — *Aux termes de l'article*

1. ☐ Is Directed/Recommended for Reimbursement
Remboursement ordonné/recommandé

2. ☐ Is Ordered/Declared Forfeited
Confiscation ordonnée/déclarée

3. ☐ Is Directed/Recommended for Partial Reimbursement in the Amount of $_____
Cash Deposit No._____ Replaces the Original Deposit No._____
Remboursement partiel au montant de $_____ Ordonné/Recommandé.
Le dépôt en espèces nº_____ remplace le dépôt initial nº_____

REMARKS — *OBSERVATIONS*

Signature of Authorized Person
Signature du fondé de pouvoir

Title — *Titre*

Date

IMM 709 AD-1 (10-88) 8

03-90

Employment and Immigration Canada | Emploi et Immigration Canada

CREW LIST - *LISTE DES MEMBRES D'ÉQUIPAGE*

(See 1.45 1) a))

☐ ARRIVAL *ARRIVÉE* ☐ DEPARTURE *DÉPART* | PAGE NO *PAGE Nº*

1. NAME OF SHIP – *NOM DU NAVIRE*	2. PORT OF ARRIVAL, DEPARTURE *PORT D'ARRIVÉE/DE DÉPART*	3. DATE OF ARRIVAL/DEPARTURE *DATE D'ARRIVÉE/DE DÉPART*
4. NATIONALITY OF SHIP – *NATIONALITÉ DU NAVIRE*	5 PORT ARRIVED FROM – *PORT DE PROVENANCE*	

7. No	8. FAMILY NAME, GIVEN NAMES *NOM ET PRÉNOMS*	9 RANK OR RATING *RANG OU GRADE*	10. NATIONALITY *NATIONALITÉ*	11. DATE AND PLACE OF BIRTH *DATE ET LIEU DE NAISSANCE*	6. NATURE AND NO OF IDENTITY DOCUMENT (SEAMAN'S PASSPORT) *NATURE ET Nº DES PIÈCES D'IDENTITÉ (PASSEPORT DE MARIN)*

12. DATE AND SIGNATURE BY MASTER, AUTHORIZED AGENT OR OFFICER *DATE, SIGNATURE DU CAPITAINE, DE L'AGENT OU REPRÉSENTANT AUTORISÉ* ▶

MMM. 200(2-78)

Canada

INBOUND - ENTRÉE

1

03-90

(See I.E. 1.49 2) a))

IE 1
APP. "I"

Employment and Immigration Canada / Emploi et Immigration Canada

CREW INDEX — *FICHE DE MARIN*

Surname — *Nom de famille*	Given Names — *Prenom(s)*	Sex — *Sexe* ☐ M — *H* ☐ F

Date of Birth — *Date de naissance* Day-*Jour* / Month-*Mois* / Year-*Annee*	Place and Country of Birth — *Lieu et pays de naissance*	Citizenship — *Citoyennete*	Marital Status *Etat matrimonial*

Height — *Taille*	Weight — *Poids*	Hair — *Cheveux*	Eyes — *Yeux*	Complexion *Teint*	Marks of Identification — *Marques distinctives*

Next of kin *Proche parent*	Relationship — *Lien de parenté*	Name — *Nom*	Full Address — *Adresse complète*

Maiden Name of Mother — *Nom de jeune fille de la mère*	Full Name of Father — *Adresse complète*

☐ Seafarer's national identity document — *Pièce d'identite des gens de mer*
☐ Crew member's certificate — *Certificat de membre d'équipage*
☐ Seaman's book — *Livret d'identité de marin*

☐ Passport — *Passeport*	Number — *Nº*	Issued at — *Délivré à*	on: *le:* Day-*Jour* / Month-*Mois* / Year-*Année*

COMPLETE ONLY PART A, B OR C AS APPLICABLE — *NE REMPLIR QUE LES PARTIES A, B OU C, SELON LE CAS*

PART A — *PARTIE A*

The person who is described herein became a member of the crew of this vehicle at
La personne décrite ci-dessus est devenue membre d'équipage de ce véhicule à _____ Place — *Lieu*

on *le* _____ Date and was *et était* ☐ was not *n'était pas* ☐ a member of the crew when this vehicle arrived in Canada
membre de l'équipage à l'arrivée du véhicule au Canada

at *à* _____ Place — *Lieu* on *le* _____ Date 19 ____

PART B — *PARTIE B*

The said *Ledit* _____ Name of crew member — *Nom du membre d'équipage* without the approval of an immigration officer,
sans l'approbation d'un agent d'immigration,

☐ failed to be on board this vehicle when it left *ne s'est pas trouvé à bord de ce véhicule lorsqu'il a quitté* _____ Place — *Lieu* on or about *vers le* _____ Date 19 ____

(✓) or — *ou*

☐ failed to leave Canada within the approved time which expired on *n'a pas quitté le Canada après la période autorisée qui a expiré le* _____ Date 19 ____

PART C — *PARTIE C*

The person who is described herein came into Canada on
La personne décrite ci-dessus est venue au Canada le _____ Date 19 ____ to join the crew of this vehicle at *pour rejoindre l'équipage de ce véhicule à* _____ Place — *Lieu* but failed to do so. *mais ne l'a pas fait.*

The said *Ledit* _____ Name of crew member — *Nom du membre d'équipage* failed to be on board this vehicle when *n'était pas à bord de ce véhicule lorsqu'il* it left *a quitté* _____ Place — *Lieu* on or about *vers le* _____ Date 19 ____

I, *Je, soussigné(e)* _____ Name of master or captain — *Nom du resp. ou du capitaine* captain/master of the *capitaine/responsable du* _____ Name or particulars of veh. — *Nom ou particularités du véhic.*

do hereby certify that the statements herein with respect to *certifie par les présentes avoir vérifié les renseignements concernant* _____ Name of crew member — *Nom du membre d'équipage*
have been examined by me and are true, correct and complete. *lesquels sont vrais, exacts et complets.*

Dated at *Fait à* _____ Place — *Lieu* this *ce* ____ day of *jour de* _____ 19 ____

_____ Signature of master/captain or authorized agent
Signature du responsable/capitaine ou de l'agent autorisé

FOR OFFICE USE ONLY — *RÉSERVÉ*

Name and full address of Agent — *Nom et adresse au complet de l'agent*	Crew member's travel document *Doc. de voyage du membre d'équipage* ☐ attached — *ci-joint* ☐ not attached (explain if necessary) *non joint (préc. dans case des obser.)*

(Applicable only to parts "A" or "B" above) — *(Ne s'applique qu'aux parties "A" ou "B" ci-dessus)*	Deposit Receipt No. (IMM. 410) *Reçu Nº (IMM. 410)*
☐ Deposit under S.S 92(1) of Act *Dépôt aux termes du paragraphe 92(1) de la Loi* or *ou* ☐ Deposit under S.S. 92(2) of Act *Dépôt aux termes du paragraphe 92(2) de la Loi* $ _____ Amount — *Montant*	

Remarks — *Observations*

Name of CIC — *Nom du CIC*	Date	Received by — *Reçu par* Senior Immigration Officer — *Agent principal*

IMM 202 EP-P (10-88) B

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

03-90

Canada

CANADA IMMIGRATION CENTRES WITH SHIP EXAMINATION RESPONSIBILITIES

(Reference at IE 1.17 3))

NEWFOUNDLAND

Canada Immigration Centre,
Frazer Road, P.O. Box 130,
GANDER, Nfld.
A1V 1W5
Telephone: (709) 256-4450

Canada Immigration Centre,
Sir Humphrey Gilbert Bldg.,
175-177 Duckworth St. E.,
P.O. Box 5817,
ST. JOHN's, Nfld.
A1C 5X3
Telephone: (709) 772-5388
(709) 772-5389

NOVA SCOTIA

Canada Immigration Centre,
5151 Terminal Rd., P.O. Box 219,
HALIFAX, N.S.
B3J 2N5
Telephone: (902) 426-3154

Canada Immigration Centre,
495 Main Street, 2nd Floor,
P.O. Box 150,
KENTVILLE, N.S.
B4N 3W5
Telephone: (902) 678-8347

Canada Immigration Centre,
49 Dorchester Street,
P.O. Box 850,
SYDNEY, N.S.
B1P 6J3
Telephone: (902) 564-7045

Canada Immigration Centre,
Bluenose Ferry Terminal,
58 Water Street,
YARMOUTH, N.S.
B5A 1K9
Telephone: (902) 742-3061

NEW BRUNSWICK

Canada Immigration Centre,
Nicholas Denys Bldg.,
Harbourview Blvd.,
P.O. Box 720,
BATHURST, N.B.
E2A 3Z6
Telephone: (506) 548-7985

Canada Immigration Centre,
189 Prince William St.,
P.O. Box 6248, Stn. A,
SAINT JOHN, N.B.
E2L 4R7
Telephone: (506) 648-4587

PRINCE EDWARD ISLAND

Canada Immigration Centre,
85 Fitzroy St.,
P.O. Box 8000,
CHARLOTTETOWN, P.E.I.
C1A 8K1
Telephone: (902) 566-7735

QUEBEC

Canada Immigration Centre,
100 Lafontaine Ave., 1st Floor,
CHICOUTIMI, P.Q.
G7H 6X2
Telephone: (418) 543-0228

Canada Immigration Centre,
P.O. Box 366,
Postal Stn., A.M.F.
DORVAL, P.Q.
H4Y 1B1
Telephone: (514) 636-5983

Canada Immigration Centre,
Galeries du Syndicat,
410 Charest Blvd., E., 5th Floor,
QUEBEC, P.Q.
G1K 3J1
Telephone: (418) 648-3583

QUEBEC (Cont'd)

Canada Immigration Centre,
701 Laure Blvd., 2nd Floor,
SEPT-ÎLES, P.Q.
G4R 1X8
Telephone: (418) 962-4696

Canada Immigration Centre,
1285 Notre-Dame St., Rm 347,
TROIS-RIVIERES, P.Q.
G9A 4X2
Telephone: (819) 379-6395

ONTARIO

Canada Immigration Centre,
Seaway International Bridge,
CORNWALL, Ontario
K6H 6S2
Telephone: (613) 932-7410

Canada Immigration Centre,
Peace Bridge,
FORT ERIE, Ontario
L2A 5N8
Telephone: (416) 871-5660

Canada Immigration Centre,
Standard Life Centre,
Plaza Lever 2,
2 King St. West,
HAMILTON, Ontario
L8P 1A1
Telephone: (416) 572-2332

Canada Immigration Centre,
Federal Bldg., Rm 241,
Bagot & Clarence Sts.,
P.O. Box 726,
KINGSTON, Ontario
K7L 4X6

Canada Immigration Centre,
4867 Victoria Avenue,
NIAGARA FALLS, Ontario
L2E 4C4
Telephone: (416) 354-2741

ONTARIO (Cont'd)

Canada Immigration Centre,
Bond Towers, 44 Bond St. W.,
OSHAWA, Ontario
L1G 6R2
Telephone: (416) 579-2002

Canada Immigration Centre,
Seaway/Skyway Int'l. Bridge,
PRESCOTT, Ontario
K0E 1T0
Telephone: (613) 925-3900

Canada Immigration Centre,
Blue Water Int'l. Bridge,
SARNIA, Ontario
N7T 2M4
Telephone: (519) 344-7641

Canada Immigration Centre,
International Bridge,
SAULT STE MARIE, Ontario
P6A 3C7
Telephone: (705) 759-1794

Canada Immigration Centre,
Federal Bldg., Rm. 305,
130 S. Syndicate Ave.,
THUNDER BAY, Ontario
P7E 1C7
Telephone: (807) 622-0669

Canada Immigration Centre,
Toronto Enforcement,
480 University Ave., 8th Floor,
TORONTO, Ontario
M5G 1V2
Telephone: (416) 369-3628

Canada Immigration Centre,
467 University Ave., W.,
WINDSOR, Ontario
N9A 5R2
Telephone: (519) 254-1101

BRITISH COLUMBIA

Canada Immigration Centre,
155 Skinner St., Rm 202,
NANAIMO, B.C.
V9R 5E8
Telephone: (604) 754-0226

Canada Immigration Centre,
Pride O'North Mall,
309 - 2nd Ave., W., Rm. 450A,
PRINCE RUPERT, B.C.
V8J 3T1
Telephone: (604) 624-5032

Canada Immigration Centre,
Vancouver Int'l. Airport,
Level 1,
RICHMOND, B.C.
V7B 1T8
Telephone: (604) 273-4113

Canada Immigration Centre,
Sandwell Bldg., 2nd Floor,
1550 Alberni Street
VANCOUVER, B.C.
V6G 2X5
Telephone: (604) 666-2171

Canada Immigration Centre,
816 Government St., Rm 377,
VICTORIA, B.C.
V8W 1W9
Telephone: (604) 388-3614

Notice of Seizure of Vehicle
(Reference at IE 1.36 (3)c))

To: (Master or Captain or other person in charge of the vehicle)

Re. SEIZURE OF VEHICLE_____ (Name or description of vehicle)
_____
_____
_____
_____

I hereby advise you that I have reasonable grounds to believe that the above outlined vehicle was used in connection with a contravention of section 94.2 of the Immigration Act. Pursuant to the authority granted to me by section 102.01(1) of the Immigration Act I hereby order the above outlined vehicle seized as forfeit.

_____ _____
Immigration Officer Date

c.c. (As stipulated in A102.01(3), copies of this document are to be sent to parties believed to have a financial interest in the seized vehicle.)

Note, you have sixty days to make an application pursuant to section 102.2(1) of the Immigration Act.

vi) are made aware of the conditions affecting employment and student authorizations and the length of time for which they may be granted entry (R15-R20).

b) The Enforcement Information Index should be checked in any case where the examining officer feels it warranted (see IC 4).

2.17 CRIMINALITY - PERSONS SEEKING ENTRY

Examining officers will refer to instructions contained in IS 10.36 1) before refusing admission to persons who are criminally inadmissible and who seek temporary entry into Canada.

2.18 EXPIRED IMMIGRANT VISAS

A person who presents an expired immigrant visa (IMM 1000) is reportable A19(2)(d) for A9(1). Should an individual argue at Inquiry that he has complied with A9(1), the response of the Case Presenting Officer should be that an expired immigrant visa is no longer a visa, but rather, a nullity.

2.19 - 2.20 SPARES

2.21 PERSON IN POSSESSION OF A VISA REFUSED ADMISSION

1) Right of Appeal for Visa Holders

Pursuant to A70(2)(b), a visitor who seeks entry into Canada and who was in possession of a valid visa when reported as inadmissible pursuant to A20(1), has the right to appeal a removal order made against him. However, upon being granted entry, the visa is spent and, if the visa holder subsequently contravenes the Immigration Act or Regulations, he does not have the right of appeal on the basis of having previously been issued a visa.

2) Advise to Post Abroad

In such instances, the port of entry should send full details to the issuing post abroad in anticipation of future representations being made to the post.

2.22 SPARE

2.23 FINGERPRINTING AND PHOTOGRAPHING

A110(2)(a) gives authority to require persons to be photographed and fingerprinted in circumstances described in R43 and R44. This provision is intended to assist officers in identifying persons not identifiable by normal means, e.g., persons who deny being the person referred to in criminal records. It is not intended that this provision will be extensively used.

2.24 QUESTIONS AND DOCUMENTATION

1) a) Canadian citizens and returning permanent residents of Canada should be questioned by the examining officer as to their citizenship and residency. The examining officer, if he considers it necessary or where he believes the traveller's name may be in the Enforcement Information Index, may request written identification to verify the traveller's verbally declared status. The same procedure is also applicable to U.S. citizens coming to Canada directly from the U.S.A. However, if the examining officer deems a written document is necessary, passports and birth certificates are excellent for identification purposes, but many other forms of identification are acceptable in establishing identity (e.g. social security cards, driver's licences).

b) For U.S. citizens entering Canada from countries other than the U.S.A. and for visitors from all other countries, written documentation must be produced for examination by the officer.

c) U.S. permanent residents may be asked to produce U.S. Alien Registration cards.

2) It is intended that only an untruth which has a direct bearing on the person's admissibility or which has the effect of foreclosing further questioning will become the basis for a report under A20(1). Other untruths should be taken into consideration in assessing the credibility of a person's story. Where a report is made in such instances, A19(2)(d) coupled with A12(4), should be used. Normally, however, A12(4) would not be the basis for a report but would be cited with another ground of inadmissibility.

3) Where a person refuses to answer any question that is pertinent to his being allowed to come into Canada and is not in possession of an immigrant visa, a report should be made (A19(2)(d) coupled with A9(1) in that the person has not disproved the presumption that he is an immigrant. If the person is in possession of an immigrant visa, then a report could be made using A19(2)(d) with A12(4).

2.25 SEARCH AT PORTS OF ENTRY

* The powers of A90 were established to permit officers to properly inspect the crews and passengers of any vehicle coming into Canada. The "Board and Inspect" provisions allow officers to account for all passengers and crew and to detect possible stowaways. "Examine any person" refers to an "examination" under the Act and should not be confused with personal search. The power to examine any record or document and to seize and remove any such record or documents for the
* purpose of making copies or extracts (A90) should only be applied with respect to the passenger and crew manifests or bills of health or other such documentation and not the personal documentation of an individual in a private vehicle. Officers confronted with an individual who refuses to satisfactorily identify himself should not resort to a search for personal documentation in his vehicle, seat, or cabin but, alternatively, consider the powers under A13(1), 20(1), 94(1)(g) or 110(2)(a) and R44(2)(b) (see IE 1).

* 2.26 SEIZING DOCUMENTS (A110)

Examining officers who have reasonable grounds to believe that a document, presented for examination, has been fraudulently or improperly obtained, or have reasonable grounds to believe that the document is required to facilitate the carrying out of any provisions of the Act or Regulations may seize the document. However, the provision of A111 must not be taken as authority to search for the
* document. For a detailed interpretation and policy, refer to IE 10.11).

2.27 TERMS AND CONDITIONS (see also 2.56)

1) A14(2) and (3) authorize an immigration officer to impose terms and conditions of a prescribed nature on either immigrants or visitors at the time of their admission to Canada. A senior immigration officer also may impose these same terms and conditions pursuant to A23(1)(a) or A23(2) and, as well, an adjudicator may impose them pursuant to A32(3)(a) or A32(4). R23 establishes the nature of the terms and conditions and differentiates between those which may be imposed on immigrants and those for visitors.

2) When imposing terms and conditions of admission, it is not absolutely necessary to state on the form the terms and conditions precisely as worded in the Regulations. However, whenever possible, it would be advisable to adopt the wording of the Regulation itself. It is the substance and spirit of the terms and conditions found in the Regulations that one is attempting to reflect.

2.28 TERMS AND CONDITIONS ON LANDING (see also 2.56)

The basic purpose of imposing terms and conditions on an immigrant at the time of landing is to ensure that he complies with one or two requirements pertaining to his admission that were established by a visa officer and to which the immigrant agreed:

1) a) The intent of R23(d)(i) is to require the immigrant, whose application for landing has been sponsored by a fiancé(e), to marry that particular fiancé(e) during a period of time that is always set at ninety days from the date of landing. The condition is not met should the new permanent resident marry someone other than the sponsoring fiancé(e), nor is the condition satisfied should the marriage take place after the ninety-day period has lapsed.

b) As it is of the utmost importance that officers are precise in their wording of this term and condition, our Legal Service has suggested that the following be used when imposing R23(d)(i):

"The condition that (name of immigrant) marry his fiancé(e) (name of fiancé(e) who has sponsored the immigrant) within ninety days from (date of landing)."

2) An immigrant, who otherwise complies with the Act and Regulations but who has a dormant health condition which could be potentially dangerous to the public should it become active, should have imposed a condition that he report for medical observation or treatment at a particular place and time, the arrangements for which would fall within the respective regions. This condition is simply a safeguard to help avoid a public health problem (R23(d)(ii)) (see also IS 8.23).

3) The requirement that a person furnish evidence of compliance with whatever term and condition imposed (R23(d)(iii)) is necessary for immigrants to enable the cancellation of the condition at the earliest reasonable date, even though a condition complied with is deemed to expire after six months from the time of landing, A15(1). It is also an essential control feature, for without this condition the immigrant does not have to show evidence of compliance and it would have to be assumed therefore, that he has complied with the condition imposed.

4) Pursuant to R23(d)(iii), (iv) and (v), the following terms and conditions should be entered on the IMM 1000 when investor and entrepreneurial immigrants are granted conditional landing. Such terms and conditions are to be only entered on the IMM 1000 of the principal immigrant, as it would be unreasonable for dependent children or the spouse to be tied to terms and conditions to which they are not party, and with which they cannot be expected to comply.

a) Investor

"Must not revoke investment in (name of business) for three years after date of landing, and must provide evidence at that time at a Canada Immigration Centre of compliance with condition(s) above."

b) Entrepreneurs

"Must establish, purchase or make a substantial investment in a business or commercial venture in Canada significantly contributing to the economy and creating or continuing employment opportunities in Canada for one or more Canadian citizens or permanent residents other than self and dependants within a period of not more than two years after date of landing;

Must participate actively and on an ongoing basis in the management of that business or commercial venture;

Must provide evidence at that time at a Canada Immigration Centre of compliance with above conditions."

c) If the wording cannot all be fitted into the Conditions of Landing Imposed space, they should continue in the Remarks space, with appropriate referral, e.g..."opportunities in Canada (continued under Remarks below)".

NOTE: As it is unlikely that the wording can all be fitted into Conditions of Landing Imposed space or continued in the Remarks section of the new proposed version of the IMM 1000, the following statement should be placed on the IMM 1000.

"I hereby understand and accept the Terms and Conditions provided in paragraphs 23(d)(iv)(A) and (B) of the Immigration Regulations, 1978, as set out in the attachment to this form."

The terms and conditions, as appropriate, should then be outlined in an attachment to the form.

2.29 TERMS AND CONDITIONS ON ADMISSION OF VISITORS (see also 2.56)

1) Terms and conditions are not intended to be imposed in lieu of a decision as to admissibility being made by an immigration officer or an adjudicator; nor are they to be used as a means of discouraging a visitor from coming into Canada. The basic reasons for imposing terms and conditions on a visitor are to ensure that the person adheres to the period and purpose for which he sought entry and to make the visitor aware of the need for formal authorization prior to his extending that period and/or varying the purposes of his visit.

2) There are three basic controls which may be imposed on the ordinary visitor to Canada:

a) A condition establishing the period of time within which a visitor must leave Canada (R23(e)(vi). For most visitors requesting entry for brief periods, the general provisions of A26(2), where a visitor may remain in Canada for a three-month period, would be sufficient control in themselves and therefore would result in a time-documentation of only those visitors who seek entry for longer than three months, or those concerning whom the officer is apprehensive that they would not leave Canada within the time requested. See IS 14.06 8) and IS 15.11 regarding documentation of dependants of people in possession of long-term authorizations.

b) A condition prohibiting a visitor from enrolling in an educational institution (R23(e)(ii)). This condition might be imposed by an officer who is somewhat apprehensive that a visitor is seeking entry with the thought of becoming a student. This condition is also necessary for technical reasons to allow A16 to operate as intended for those few persons who are exempt under A10 from the need to obtain a student authorization abroad and who may be granted an authorization in Canada (see R16(1)). A16(1) requires that a visitor apply to vary or cancel terms and conditions imposed...". Obviously, this provision is applicable only where terms and conditions have been imposed. However, where such a person appears at a port of entry and is in possession of all documents needed for the issuance of a student authorization, the authorization should be given at the port of entry and conditions should be imposed as in 3)a) below.

c) A condition prohibiting a visitor from taking employment while in Canada R23(e)(i)). This condition might be imposed by an officer who feels, but has no evidence to support his feeling, that a visitor is seeking entry with the thought of working once he has been admitted to Canada. This same condition, and for the same reasons as cited in b) above, would be applicable for those visitors who are exempt from obtaining an employment authorization abroad, but who may apply for an authorization in Canada (see R19(3)).

3) Most of the other terms and conditions which may be imposed on visitors have more particular application:

a) For a visitor who is in possession of a subsisting student authorization, an officer should impose conditions which are relevant to the authorization, namely, attendance at a specific institution (R23(e)(iii)), and the period of time within which the student must leave Canada (R23(e)(vi)). The imposition of conditions allows the student to make application pursuant to A16(1) for a renewal of the authorization or to vary the terms and conditions imposed. Students granted long-term authorizations for the duration of their course of studies, i.e., 2 or 3 years, should have the notation "Must be in attendance at (name of institution)" inserted in the Terms and Conditions space on the IMM 1208. Non attendance during holidays or illness would not be considered a breach requiring a report under A27. (See also IS 14.10(8)).

b) For a visitor who is in possession of a subsisting employment authorization, three conditions should be imposed all of which reflect the details of the authorization, namely, the specific type of employment in which the person is required to engage (R23(e)(iv)), the particular employer for whom he must work (R23(e)(v)), and the period of time within which the worker must leave Canada (R23(e)(vi)). As for the student, the imposition of terms and conditions on a worker is necessary for A16(1) to become applicable.

c) For a visitor seeking entry to join a crew of a vehicle already in Canada, a condition should be imposed that would require him to join the vehicle within a specified period of time (R23(e)(viii)). This is a control measure and the time allotted should be a reasonable period within which the person can join the vehicle.

d) A condition might be imposed to limit the area within which a visitor may travel in Canada (R23(e)(vii)), e.g., limits the travel of persons in transit through Canada to another country or a person coming to Canada to stand trial or to be a witness in legal proceedings.

e) The visitor who otherwise complies with the Act and Regulations but who has a dormant health condition which could be a danger to public health if it became active, should have imposed a condition naming the time and place where the visitor would have to report for medical observation and treatment while in Canada (R23(e)(ix)).

f) Visitors who have had imposed upon them conditions pertaining to attendance at a school, employment, or medical observation also should be required to furnish evidence of compliance with the terms and conditions imposed (R23(e)(x)), as a control measure.

4) a) The scheme of the Act and Regulations makes it illegal to work or study in Canada without authorization. An authorization is, therefore, permission to do something which, in its absence, would be illegal. If a person obtains an authorization but chooses not to avail himself of the privilege extended to him and does nothing which an ordinary lawful visitor may not do, he is doing nothing which is contrary to the Act or Regulations. While an authorization permits a visitor to do something more than merely visit, it should not require him to do so.

b) It should be recognized that an authorization holder is, by law, given the additional privilege of applying in Canada to change terms and conditions, to extend his authorization, to obtain a different authorization or to extend his visitor status. While officers have discretion to grant or refuse such applications, they should not remove the right to apply by imposing conditions which cannot be lived up to or which would constitute slavery. Furthermore, they should not refuse to grant a change in terms and conditions when the existing ones, even in the best of faith, are impossible to fulfill, so long as it is not contrary to the Act and Regulations to grant the requested change.

2.30 VISITOR SECURITY DEPOSITS

For complete details on visitor security deposits, refer to Chapter IE 3.

2.31 RIGHT TO COME INTO OR REMAIN IN CANADA

Although all persons who seek to come into Canada must report for examination, various classes of persons have rights and privileges to come into or remain in Canada.

1) Canadian citizens have a right to come into and remain in Canada (see also IE 2.46 2)).

2) a) Permanent residents, regardless of the duration of their residence in Canada, have a right to come into and remain, unless they have become persons who are subject to removal for some other reason, e.g. conviction of a serious crime.

b) A127 protects persons who acquired Canadian domicile under the 1952 Act from being pursued retroactively for past non-subversive or non-narcotics offences. Their domicile will not protect them however, against deportation for any offence committed under the regime of the new Act.

3) Convention refugees have a qualified right to remain in Canada, but not to enter.

4) Indians registered under the Indian Act have the same rights as Canadian citizens to come into and remain in Canada.

2.32 PERSONS ALLOWED TO COME INTO CANADA

1) A14(1)(a) is straightforward in that a person who has a right to come into Canada (see A4(1) and (3)) must be allowed to come into Canada. This provision is extended to those persons who are in possession of a Minister's Permit, provided that the Permit is subsisting (A14(1)(b)). Although A14 (1)(c) carries this provision a little further, it is more complex in that it is dealing with those persons who have been ordered removed from Canada or to whom a departure notice has been issued.

2) The person in A14(1)(c) who has been removed from or has otherwise left Canada but has not been granted permission to lawfully go into any other country, is returning by force of circumstances and must be allowed to come into Canada. However, he is neither a visitor nor an immigrant but remains required to leave Canada. If he was ordered removed prior to his departure, the removal remains in force until his removal can be effected. If he was issued a departure notice prior to his departure, a report must be made pursuant to A27(2)(i). The officer must determine whether thè person should be arrested pursuant to A104(2) for removal or inquiry, as the case may be (see IE 10.15).

   a) Such a decision will be based on the officer's opinion as to whether or not the person poses a danger to the public or would be readily available for the removal or inquiry.

   b) In the majority of cases, the examining officer will be dealing with a person who has been given either voluntary departure or a departure notice, thus eliminating "a danger to the public" consideration.

   c) To determine if the person will be readily available for removal or inquiry, the officer should take into consideration such factors as:

      i) what accommodation is available for the person;

      ii) what is his financial situation;

      iii) by what date was he to depart from Canada.

   d) It is anticipated that the number of persons having to be arrested will be very minimal.

2.33 PRIMARY EXAMINATION RESPONSIBILITY

1) a) Customs officers are responsible for the primary examination of passengers seeking to come into Canada on behalf of four federal agencies: Customs, Immigration, Health and Agriculture. Since they will not be able to provide the same attention to immigrants as is expected from examining officers concerned only with immigration, visa officers are asked to bear this in mind when counselling immigrants.

   b) Other agencies such as the RCMP and officers of Environment Canada are designated to carry out functions of immigration officers at specific points in northern parts of Canada.

2) Customs officers conducting immigration primary examinations are to refer any person being examined by them for a secondary examination where:

a) the person is unable or unwilling to answer the questions;

b) they determine or suspect that the person may be in the inadmissible classes; or

c) they suspect that the person may be a person described on the Immigration Secondary Referral List (see Appendix "A").

2.34 REPORTS PURSUANT TO A20(1)

Where an examining officer is of the opinion that a person being examined by him is inadmissible, he shall report that person to a senior immigration officer, unless he allows the person to leave Canada (A20(1)(b)). The Act clearly establishes that this report shall be in writing. As well, it must clearly identify the sections of the Act or Regulations under which the examining officer feels that the person is inadmissible. Also, the report must be signed by the immigration officer who examined the person. (For further guidance on the making of reports, refer to IE 11.)

2.35 REVIEW BY THE SENIOR IMMIGRATION OFFICER AT A PORT OF ENTRY (see also IE 11.30)

1) The senior immigration officer is the person responsible for conducting any review he may consider to be necessary to determine whether the person who has been reported to him pursuant to A20(1) may come into or may be admitted to Canada, or whether an inquiry must be held. This "review" by the senior immigration officer is not considered to be part of the examination in that the person does not have to be interviewed by the senior immigration officer.

2) Where the senior immigration officer disagrees with the report, he may take any action the examining officer could have taken to admit or let the person come into Canada.

3) Where the senior immigration officer agrees with the report, he must take steps to bring the person before an adjudicator as soon as practicable unless the person lawfully exercises the option, at this stage, to return abroad (A23(3)(d)). In addition, the senior immigration officer may grant a temporary waiver of inadmissibility under A19(3).

2.36 DISCRETIONARY GRANT OF ENTRY (A19(3)) (See also IE 14.35)

1) Intent of A19(3)

a) A19(3) confers discretionary authority on a senior immigration officer to grant entry for a maximum period of 30 days, thereby lessening the need for Minister's Permits where the grounds of inadmissibility are relatively minor (A19(2) cases), and where denial of admission would be unduly harsh.

b) SIOs using A19(3) should try to balance the reasons for inadmissibility against the reasons for which the individual is seeking entry. The more serious the grounds, the better should be the reason justifying entry (e.g. a recent A19(2)a) conviction would normally be considered as more serious than lack of a document). The likelihood of the person eventually having to be removed from Canada should also be considered by the SIO before A19(3) entry is granted, as removal costs become the responsibility of the Commission once entry is granted.

2) Proper Use of A19(3) Discretion

a) The use of discretionary authority under A19(3) should only occur after the senior immigration officer has reviewed a report pursuant to A20(1) and considers the person falls within A19(2). Normally, the SIO should use this authority only where he feels an inquiry would serve no useful purpose and compassionate or other pressing considerations warrant entry. In such cases, it must be clear that the person concerned poses no threat or danger to the public.

b) SIOs must always check the Enforcement Information Index before admitting a person under A19(3). Special care must be taken in those cases requiring special procedures for visa issuance.

c) Frequently, the SIO will consider the use of A19(3) in cases of persons lacking visitor visas. In such instances, fairness should be the overriding consideration. Where the individual concerned is genuinely unaware of the visa requirement, if the reason for seeking entry is of such an urgent nature as to preclude obtaining a visa, or if the decision to enter Canada is spontaneous, it would be appropriate to use A19(3). (An example of a spontaneous decision to enter Canada might be where friends/relatives of a visitor to the U.S.A. decide to enter Canada from Niagara Falls, N.Y. to see the Canadian Falls, and the U.S. visitor meets all requirements for entry, including readmissibility to the U.S.A., except for the visa.) On the other hand, if a person simply ignored visa requirements, or had plenty of time to inquire about and obtain a visa, there is no element of unfairness in refusal to use A19(3).

d) The use of A19(3) in cases where the person has been refused a visitor visa abroad should be extremely rare, and only if refusal was based on a paragraph of A19(2). If the basis for inadmissibility is that the person is considered not to be a genuine visitor, A19(3) will not be used as the person is not described in A19(2).

e) Although A19(2)d is broadly worded, it refers only to those persons who do not fulfill or comply with any of the conditions or requirements of the Act or Regulations. It does not refer to persons who fall within the inadmissible classes described in A19(1).

3) The 30-Day Limitation

a) The 30-day limitation on entry was specifically designed to cover the short-term visitor, while the power to impose appropriate terms and conditions was given in recognition that the particular circumstances of a case may dictate special limitations on the visit.

b) Although a visitor may have initially sought entry for more than 30 days, the SIO may legitimately authorize A19(3) entry for a period not exceeding 30 days, but only if he believes the person will respect the time period given, and the SIO has imposed the time frame with the intent that the person will leave Canada on or before the date specified, (e.g. a visitor seeks entry for 45 days to attend his father's funeral, and is found to be described in A19(2)(b). It would be proper to grant A19(3) admission for a lesser time period.)

c) If circumstances dictate that a long-term visitor should be granted entry before he complies with all requirements, the proper authority is a Minister's Permit. It would not be proper to grant A19(3) entry with instructions to report to a CIC at the end of the 30-day period for consideration of a Minister's Permit. Where A19(3) entry is granted, officers are to counsel the visitor that no extension of stay can be granted beyond that initially authorized.

4) Non-Issuance of Employment Authorizations

a) There is no authority in the Act and Regulations to issue an employment authorization in conjunction with A19(3) admission; however, since A19(3) provides that terms and conditions may be set, admission under A19(3) can be allowed with permission to work as a condition, normally only with a named employer in a specific job. The use of A19(3) in this way would, of course, only apply to persons seeking entry for a period of less than 30 days.

b) The reference in 2.36 2)c) concerning fairness in terms of the facts of the case should be noted in these cases as well. Admission under A19(3) after a report under A19(2)(d) to take employment should normally be used where the circumstances are such that the person seeking entry was not aware of the need, or because of the urgency of the situation, did not have the opportunity to obtain an employment authorization. The use of A19(3) as a standard means of documenting persons who seek entry to work for brief periods would work against proper controls and monitoring of the foreign temporary worker movement.

5) Conditions - A19(3) Discretionary Authority

In exercising discretionary authority under A19(3), the following conditions must be scrupulously observed:

a) the discretionary power must be exercised in good faith, for no improper or biased purpose, by the person to whom the power is given in the Act;

b) the SIO cannot delegate the power to another person nor be ordered to use or not use the power by another person;

c) the power must be used honestly and not capriciously. That is, its use must be based on evidence, facts, or information obtained to determine the merits of the particular case and not automatically in accordance with predetermined policy.

2.37 PERSONS EXTRADITED TO CANADA

Persons being extradited to Canada are not of themselves seeking to come into Canada, but are brought here under a legal warrant to stand trial or to serve a sentence. We have, in the past, taken the position that persons coming to Canada under extradition fell outside Canada Immigration's jurisdiction and that they could not be examined as to admissibility. Following a review of the issue with Legal Services, we are amending this stance and will henceforth examine all persons coming forward under extradition proceedings. Where the person concerned is considered inadmissible, a Minister's permit will be issued. (See also IE 14.44 for further details regarding persons being extradited to Canada from the United States). Since the government wants persons extradited to Canada to come into Canada, even if they are inadmissible, we will allow the person concerned to come into Canada. (See also IE 2.66).

2.38 VISITOR VISAS - SUBSEQUENT ENTRIES WITHIN VALID AUTHORIZATIONS

R13(4) states that every visitor who is required to obtain a visa, student authorization or employment authorization before appearing at a port of entry must be in possession of a valid visa, student authorization or employment authorization when appearing at a port of entry. Students and temporary workers from non-visa exempt countries are, therefore, required to be in possession of both a valid visa and an authorization at the time of initial entry and a valid visa in the case of subsequent entries within the validity of the authorization. The exception to this may be found in Schedule II, paragraph 11 of the Regulations, which states that persons in possession of valid and subsisting student authorizations or employment authorizations seeking to return as visitors to Canada from the United States or St. Pierre and Miquelon are not required to be in possession of a valid visitor visa in cases where the authorizations were issued prior to the departure of those persons from Canada (see also IS 4.40).

2.39 PERMANENT RESIDENTS (See also IE 2.51)

1) Rights and Responsibilities

a) Pursuant to subsection 4(1) of the Immigration Act, permanent residents have a right to come into Canada except where it is established that the person concerned is described in subsection 27(1). In addition to the right of entry, permanent resident status directly confers or establishes eligibility for certain fundamental rights and privileges which, by their nature, should be neither carelessly extended, nor once attained, lightly rescinded. It is, therefore, particularly important that entitlement to this status and all it entails, be neither arbitrarily removed nor casually maintained.

b) The purpose of this guideline is to clearly define the intent of the Act and Regulations with respect to the maintenance and abandonment of permanent resident status in Canada and to assist immigration officers to regulate the return to Canada of those permanent residents who have remained outside of the country for lengthy periods of time.

2) Loss of Status

a) Persons against whom a deportation order has been made lose their permanent resident status (A24(1)(b)) unless the order is quashed or stayed pursuant to subsection 75(1). A24(2) states that a permanent resident who is outside Canada for more than 183 days (six months) in any twelve-month period (these days are cumulative and might occur as the result of one long absence from Canada or a number of absences which amount to more than 183 days over a twelve-month period) shall be deemed to have abandoned Canada as his/her place of permanent residence unless he/she satisfies an immigration officer or an adjudicator that he/she did not intend to abandon Canada as his/her place of permanent residence (see 3) following).

b) An absence of more than 183 days in any twelve-month period does not mean that the person concerned has automatically lost his/her permanent resident status. A24(2) states that the factor which determines whether a person has lost permanent resident status is his/her intention to retain or abandon Canada as his/her place of residence. Although length of absence may be an indicator of a person's intentions, it is not the sole determining factor.

c) The 183-day figure mentioned A24(2) as the period after which a person is "deemed to have abandoned Canada as his/her place of residence unless he/she can satisfy an immigration officer or an adjudicator that he/she did not intend to abandon his/her status/, is important insofar as it indicates a shift in the onus of proof. If a person remains outside Canada for more than 183 days in any twelve-month period, it is up to him/her to satisfy the examining officer or adjudicator that he/she has not abandoned Canada as his/her place of residence. If a permanent resident is absent from Canada for less than 183 days, the Commission must establish that he/she intended to abandon his/her permanent resident status in Canada.

d) Unless there is a heavy preponderance of evidence to suggest that a person who has been absent for less than 183 days has ceased to be a permanent resident, he/she should be given the benefit of the doubt and allowed to come into Canada as a returning resident. Persons absent from Canada for more than 183 days who are not in possession of a returning resident permit should be regarded as having satisfied the burden of proof if they produce solid evidence, (see 2.51 2)), which tends on balance to support the conclusion that they did not intend to abandon Canada as their place or residence.

3) Determination of Abandonment of Status

a) The final determination that a person has ceased to be a permanent resident and may not come into Canada as a returning resident is made by an adjudicator at an inquiry. The official departmental records will continue to show a person's status as being that of permanent resident until a final determination has been made.

b) Section A24(2) states that a person who remains outside of Canada for more than 183 days in any twelve month period shall be deemed to have abandoned Canada as his/her place of permanent residence unless he/she satisfies an Immigration Officer or an Adjudicator that he/she did not intend to abandon Canada as his/her place of permanent residence. However, the scheme of the Act is such that an immigration officer can make only a preliminary determination in those cases where he/she believes the person concerned has ceased to be a permanent resident. Just as he/she can make a final decision as to a person's admissibility only where he/she decides to admit a person seeking entry and to extend to him/her the status sought, an examining officer's determination of a person's retention or loss of permanent resident status is final only where he/she decides in favour of that person.

c) If an examining officer concludes that a person seeking to come into Canada as a returning resident, left or remained outside Canada with the intention of abandoning Canada as his place of permanent residence, he must either report that person to a senior immigrant officer (pursuant to Section 20(1) (see 2.51 4)), allow that person to leave Canada forthwith, or admit him with some other form of status (see 2.51 5)). Allowing a person to withdraw voluntarily or admitting him as a visitor does not constitute a final determination that the person has ceased to be a permanent resident nor does it constitute tacit acceptance of loss of status by the person concerned.

4) Retention/Abandonment by Minor Children

a) The Immigration Appeal Board has ruled in the case of Troy Anthony D'Souza that a child under 14 cannot form the intention of abandoning Canada as his place of permanent residence.

b) Unless a deportation order has been made against him, a permanent resident who, as a child, left Canada to take up residence elsewhere and who, prior to his fourteenth birthday seeks to come into Canada in order to re-establish residence, must be regarded as having retained permanent resident status.

c) A permanent resident who, prior to attaining the age of fourteen (14), left Canada and took up residence elsewhere and who, after reaching fourteen (14), returns to Canada in order to re-establish residence, should be regarded as having retained permanent resident status if he has returned to Canada at the first opportunity after reaching the age at which he can make a decision concerning his place of residence and signifies his intentions to Immigration officials.

d) The requirement to come to Canada "at the first opportunity after being of age" should not be interpreted as an enjoinder to come forward immediately upon attaining 14 years of age. Rather, it must be interpreted in light of individual circumstances. It is quite conceivable that no such opportunity will occur until sometime after the person concerned has become financially independent of his parents.

5) Right of Appeal to the Immigration Appeal Board

The Federal Court of Appeal has held that the Immigration Appeal Board has jurisdiction to hear evidence and determine the fact upon which the right of appeal depends (i. e., the holding of permanent resident status by the appellant) in those cases where an adjudicator has concluded that the person is no longer a permanent resident because he left or remained outside Canada with the intention of abandoning Canada as his place of residence. This jurisdiction applies whether or not subsection 24(2) comes into play.

2.40 PROSTITUTES

1) The purpose of the relevant enforcement provisions of the Act is to protect Canada from convicted criminals, persons likely to commit an indictable offence, those involved in organized crime, and those likely to endanger public health. It should be borne in mind that prostitution, per se, is not an offence in Canada and that if a prostitute does not fall within one of the inadmissible classes, then an officer must grant admission or allow the alleged or admitted prostitute to remain in Canada.

2) The use of A27(2)(b), or A19(2)(d) coupled with A10 at ports of entry, is not appropriate and cannot be supported in law. This opinion is based on the premise that an employment authorization refers only to legitimate employment.

3) There may be instances where action under paragraph 27(2)(g) is appropriate. However, this possibility will be limited to those cases where there is evidence of false or misleading information and the information was material to the grant of admission in that it concealed a ground of inadmissibility or closed off questioning which would have revealed a ground of inadmissibility. Giving a false name, for example, where the real name was a person who would have been inadmissible would render a person reportable under 27(2)(g), coupled with the other inadmissible grounds.

4) Paragraph 19(1)(h) cannot be used because the officer does not approve of the purpose for which a person is seeking entry but which does not bring the person within an inadmissible class and which does not clearly indicate that the person intends to remain in Canada permanently. Prostitutes, per se, are not listed in either section 19 or section 27 of the Act. This was not an oversight on the part of the legislators and officers should be aware that their actions can be called into question when they go beyond the provisions of the legislation.

2.41 CANADIAN LAWS OFFSHORE APPLICATION ACT (CLOAA)

1) The Canadian Laws Offshore Application Act (CLOAA) came into force on February 4, 1991. It extends the application of our Immigration Act, and other Federal Acts of Parliament, to offshore installations. In particular, with the CLOAA, the need to report for examination and, under certain circumstances, the need to obtain an employment authorization have been extended from the territorial sea (12 mile limit) to the 200 mile economic zone limit or to the edge of the continental shelf whichever is most distant from the Canadian landmass. In other words, the 200 mile limit is a minimum. If the continental shelf extends more than 200 miles

off our coasts, then the edge of the continental shelf would be used to delineate the outer boundary of the economic zone and therefore the area in which our Immigration Act would apply.

2) More specifically, our legislation applies to any marine installation or structure that is anchored or attached to the continental shelf or sea bed in connection with its exploration or the exploitation of its mineral or non-living resources within the 200 mile economic zone. As well, it extends the application of our Immigration Act and regulations to any artifical island constructed, erected or placed on the continental shelf.

3) At the same time, it gives the Governor in Council the authority to make regulations to exempt a group of prescribed persons from any provision or section of our Immigration Act as well as to extend the application of a given regulation or section of the Act to the 200 mile limit or to the edge of the continental shelf. At this time, the Governor in Council has not instituted any regulations pertaining to the CLOAA.

2.42 SPARE

PROCEDURES

2.43 INTRODUCTORY OR BASIC QUESTIONS

1) Opening Question

Examining officers should not question persons seeking to come into Canada as to their country of birth. We are concerned only with citizenship and the best way to determine this is by asking directly, "Of what country are you a citizen?". How the examination progresses from that point depends on the answer given. This principle applies to all persons arriving at a port of entry.

2) Examination of Canadian Citizens - Right to Come into Canada

a) Although Canadian citizens must report for examination in accordance with A12(1), they have a right to come into Canada (A4(1)). Bearing this in mind, officers must deal with them with as little delay or formality as possible. Due to numerous variables, it is impossible to specify in detail how an examination is to be conducted on the person or the sequence of questions. The examining officer must be satisfied as to the identity of the person being examined, but will not engage in unnecessary questioning. Once identity is established by means of a Canadian passport or citizenship certificate, further questioning is seldom necessary.

b) i) Registration of births abroad of children born of Canadian parents after February 15, 1977 is no longer a requirement. Such children are Canadian citizens. However, parents should be encouraged to establish the child's citizenship under provision of subsection 11(1) of the Citizenship Act.

ii) Examining officers at ports of entry will verify the citizenship of the parent(s) and the relationship between the parent(s) and the child. Once this is verified, the child has the right to come into Canada.

c) i) Children born abroad of Canadian fathers before February 15, 1977 are NOT Canadian citizens unless they have been registered with the Citizenship Registration Branch, Secretary of State Department in Ottawa.

ii) For unregistered children in this category appearing at ports of entry, the examining officer must establish the relationship between the parent(s) and the child, after which the child will be allowed to enter Canada under Minister's Permit (see chapters IS 10 and ID 4). However, the parent(s) will be counselled to register the child with Citizenship Registration on form SEC 3-45 (supplies of which are obtainable from Secretary of State) and, if the child does not obtain citizenship, to report with the child to a CIC so that the child can be granted permanent residence in Canada.

d) i) In cases where there are reasonable doubts as to a claim to Canadian citizenship, form SEC 3-58A will be sent to the Citizenship Registration Branch, P.O. Box 7000, Sydney, N.S. B1P 6V6 requesting a search of citizenship records. Telephone requests (at 902-564-7800/7801/7802) will be accepted only in very urgent cases (e.g. where a person is under examination at a port of entry awaiting a decision as to his admissibility) and must be followed up by a completed SEC 3-58A.

ii) Telex requests (SOS-SYD 019-35295) addressed as above are also acceptable in urgent cases.

e) Canadian Citizenship Certificates

The small version of the Canadian Citizenship Certificate has been redesigned. In particular, the size of the photograph has been reduced from 44mm x 57mm (1 3/4" x 2 1/4") to 35mm x 53mm (1 3/8" x 2 1/16"). This modification has permitted a reduction in the size of the certificate, so that it may be carried in a conventional wallet. The new certificate has been issued for all applications received since July 1, 1986.

3) Examination of Indians

a) A person who is registered as an Indian pursuant to the Indian Act has the same rights and obligations as a Canadian citizen under the Immigration Act. Certificates of Indian Status are issued upon request to persons registered as Indians under the Indian Act who have reached 16 years of age, and in special circumstances, to Registered Indian children under the age of 16. Responsibility for Certificates of Indian Status is decentralized to the regional offices of the Department of Indian and Northern Affairs including implementation of appropriate procedures for their lamination and for verification that the information contained thereon is consistent with the Indian Register. Certificates of Indian Status will normally be issued by the Regional, District or Band Office charged with the maintenance of the field copy of the Indian Register for the band concerned. Once Indian status is established, the person must be allowed to come into Canada.

b) Those without certificates will be examined in the normal manner.

4) Permanent Residents

Pursuant to subsection 4(1) of the Immigration Act, permanent residents have a right to come into Canada except where it is established that the person concerned is described in subsection 27(1). In addition to the right of entry, permanent resident status directly confers or establishes eligibility for certain fundamental rights and privileges which, by their nature, should be neither carelessly extended, nor once attained, lightly rescinded. It is, therefore, particularly important that entitlement to this status and all it entails, be neither arbitrarily removed nor casually maintained (see also IE 1.20 and 1.64 and IE 2.51).

2.44 - 2.45 SPARES

2.46 SECONDARY EXAMINATION

1) Secondary Examination Referrals

Refer to Appendix "A" for a complete list of secondary examination referrals.

2) Coding of Secondary Examination Referral Cards

a) Customs have two forms which are used by PIL officers to refer persons to secondary examination. Customs form E311 (see APP. "I-1") is designed for use by PIL officers at airports and Customs form E67 (see APP. "I-2") is for use at border ports of entry. These forms are used to:

i) facilitate control and streaming of passengers;

ii) provide data for Statistics Canada;

iii) refer passengers to Immigration, Health, Agriculture or Customs for secondary examination indicating on the card by code or other means the reason for the referral so that the secondary officer shall know how he should examine the person who presents this card.

b) The Immigration portion of forms E311 and E67 are coded T, E, L, O.

T - indicates time
E - indicates employment
L - indicates lookout
O - indicates other cases.

c) When using forms E311 and E67, the PIL officer will circle the appropriate letter to indicate the reason for referral.

d) "T" circled means the person wishes to stay more than six months and must be issued an IMM 1097 (see APP. "B") if the Secondary Officer finds him admissible. "T" shall apply to all visitors who intend to stay more than six months.

e) "E" circled means the person intends to take employment in Canada.

f) "L" circled means the person may be on a lookout list or the PIL officer suspects the person may be a prohibited person.

g) "O" circled means other cases and will include:

i) applicants for landing; and

ii) persons whom the PIL officer doubts the purpose for which they are seeking entry is bona fide.

3) Stamping of Documents

During the course of primary examination, Customs Officers may be required to do immigration documentation. In such cases, the Customs port stamp will be imprinted on the forms or documents concerned. When persons are referred to Immigration Officers, however, any resulting documentation will bear the Immigration port stamp.

4) Responsibilities of Secondary Examination Officers

Secondary examination officers shall be responsible for identifying, examining and documenting on the applicable control document, persons or groups referred to them who must be documented in accordance with instructions contained in the classifications - "Documentation of Immigrants" and "Documentation of Visitors" and stamping the passport or other travel document.

5) Procedures at Ports of Entry Manned Only by Customs, RCMP or Environment Canada

a) At ports of entry where no Immigration Officer can be made available, Customs, RCMP or Environment Canada, shall complete Control Documents as required and forward pertinent copies to the CIC having jurisdiction.

b) On shifts where Immigration Officers are not immediately available, Customs Officers will conduct secondary examinations to the extent possible, seeking the assistance of Immigration Officers only where the circumstances absolutely require this action.

2.47 MARRIAGE AFTER VISA ISSUANCE (See also IE 4.47)

1) When immigrants being examined for landing inform an examining officers that they were married after immigrant visas had been issued to them as single persons, the officers must assume the truth of the voluntary statements and proceed as though the immigrants are married.

There are exceptions to this:

a) Convention Refugees and those described in the Designated Class Regulations: These immigrants and only their accompanying dependents must meet the requirements of the Act and Regulations (reference R12(d)).

b) Fiancées who marry their sponsors after visa issuance but before landing. This change in circumstances is not material to admissibility.

2) In all other cases an officer must report the prospective immigrant under A19(2)(d) for R12(c) regardless of whether or not the person has documentary proof of the marriage.

3) a) There may be situations when we would not wish to proceed with enforcement action for reasons of public policy. In these cases a Minister's Permit should be issued to allow the person to enter Canada. While these persons may eventually be landed, the procedure followed to effect landing will vary from case to case depending on the immigrant's and the spouse's particular circumstances.

b) In order not to hold these clients at the Port of Entry while a decision is made, they should be issued Minister's Permits and allowed forward to their intended destinations once the reports have been completed and the necessary action taken to have the spouse examined. A full case summary should accompany the file so that appropriate follow-up action can be done by the receiving inland CIC.

c) Officers should bear in mind that the immigrant's medical examination background check and travel document may need to be updated while the spouse is being examined and before landing can take place.

4) In cases not involving public policy, officers should proceed with normal enforcement action.

2.48 GRANTING OF LANDING

1) When the immigrant has complied with the Act and Regulations, the immigration officer shall grant landing to him and may impose any applicable terms and conditions set out in R23(d).

2) Where landing takes place at a port of entry, the guidelines and procedures to be followed will be found in ID 3 and IE 6.

3) When a prospective entrepreneur is admitted at the port of entry, a copy of the landing record (IMM 1000) will be immediately forwarded to the Regional Entrepreneurial Coordinator (see also IS 5.54 4)).

2.49 GRANTING ENTRY

1) As defined in the Act, the term "visitor" includes those persons who have an employment and/or student authorization, as well as persons who seek entry or are in Canada for any other temporary purpose. A person under a Minister's Permit is not a visitor.

2) a) Persons requesting entry as visitors at ports of entry should routinely be granted entry for a period of six months. This applies even in cases where entry may be requested for very brief periods. Six months will be more than adequate for most purposes of travel, thus precluding the need to request an extension. Immigration officers granting six months' entry will stamp a passport or other travel document, inscribe a date of expiry based on a calculation of 6 months from the date of entry and then initial this notation.

b) The policy of granting 6 months does not apply to all categories of visitors. It does not apply to holders of valid student or employment authorizations, or their dependants.

c) There are some types of cases which will clearly require a grant of entry of less than 6 months. These cases should be concluded by the examining officer without referral to secondary examination. They include:

i) person is in possession of a visitor's visa which indicates length of stay was intended to be for less than six months; this is especially relevant to visitors from special category countries;

ii) person's whose passport or other travel documents will cease to be valid in less than six months;

iii) United States citizens and alien residents who likely would not be in possession of a passport or other travel document. Such persons may be granted entry for up to three months. Beyond that, they must be documented on an IMM 1097 in order to comply with the requirements of the Immigration Act;

iv) visitors in transit through Canada.

3) Visitors other than those in possession of either an employment or student authorization will be documented on an IMM 1097 (see APP. "B"), where:

a) The visitor intends to remain in Canada in excess of six months. One form normally is sufficient for a family travelling together (see Act for definitions of family).

b) Visitors who, in the opinion of the examining officer, should be documented for control purposes regardless of length of stay. This could include seamen who are signing off or entering to join a crew, visitors entering for medical treatment, persons extradited to Canada who are being allowed forward as visitors (see also IE 2.66), or any visitor upon whom terms or conditions, as prescribed in the Regulations, have been imposed. This may also include Special Category visitors. Refer to IC 2.20 8)a).

c) The visitor is a U.S. citizen or alien resident not in possession of a passport or other travel document and who intends to remain in Canada in excess of three months.

4) Personal servants, who come forward with, or are destined to, their usual foreign employers while the latter are visiting Canada, will be considered as tourists and documented as outlined in 3) above.

5) When granting visitor's status, officers should ensure that the expiry date will not fall on a weekend or statutory holiday. Persons whose visitor status expires on a Saturday or Sunday but who do not report to an Immigration office until the following Monday are reportable pursuant to A27 2)e) (see IE 4.12 4)).

* 2.50 VISITOR VISA EXEMPTION - REGULATION SCHEDULE II, PARAGRAPH 13 AND A19(3)

Persons granted entry pursuant to A19(3) who subsequently visit the U.S.A. or St. Pierre and Miquelon and seek to return to Canada are visa exempt under paragraph 13 of Schedule II of the Regulations at the time they seek re-entry. They must, of course, seek to return within the period authorized at the time of their initial entry.

Since these persons are visa exempt they may be granted entry in the normal manner and for appropriate periods of time. Even where the persons were only granted 30 days on initial entry, they may be granted 6 months entry on return from a visit to the U.S.A. or St. Pierre and Miquelon.

2.51 RETURNING RESIDENT PERMITS (See also IE 2.39)

1) Presentation of Returning Resident Permit

a) When presented at a port of entry, a Returning Resident Permit (IMM 1228 - see APP. "C") is, in the absence of evidence to the contrary, proof that the holder has not abandoned Canada as his/her place of permanent residence. Possession of a Returning Resident Permit is neither a requirement for admission as a returning resident, nor is it a guarantee that the holder will be allowed to come into Canada (see also IS 1.20 and IS 1.64).

b) Possession of a Returning Resident Permit does signify that the holder has been examined by an immigration officer and that the officer was satisfied that the holder had not ceased to be a permanent resident. In view of the fact that the applicant's intentions concerning the maintenance of residence in Canada have been carefully assessed before the permit was issued, it should not be necessary to conduct a lengthy examination when a permit is presented at a port of entry unless there is good evidence that the holder has ceased to be a permanent resident or that the permit was fraudulently obtained.

2) Determining When Status Has Been Abandoned

a) When a person seeks to be allowed to come into Canada as a returning resident and he is not in possession of a returning resident permit, the examining officer should, wherever possible, base his decision as to whether the person has abandoned Canada as his place of residence, on such documentary evidence as the person may present or such as is otherwise available to him. Such documentary evidence might include:

i) a letter stating that he has been or is employed by a Canadian company operating outside Canada;

ii) a document pertaining to his attending school outside Canada or citing medical reasons for his tardiness in returning to Canada;

iii) notations or foreign visa stamps or forms in the person's passport showing the status he was granted in another country;

iv) any other documentary evidence that gives credence to the person's claim to returning resident status.

b) In the absence of any, or of conclusive documentary evidence, the examining officer will have to base his decision on the retention of permanent resident status on answers given by the person concerned to questions aimed at eliciting the kind of information outlined below, and to any other questions the officer may deem relevant.

i) the person's intention at the time of departure;

ii) the person's intention at the present time;

iii) how long the person lived in Canada prior to his leaving;

iv) how long the person has been outside Canada;

v) the purpose for leaving Canada;

vi) the reason for remaining outside Canada;

vii) when the person anticipates returning to Canada on a permanent basis if that is not the purpose of his current journey;

viii) if the person has a job outside Canada;

ix) whether the person is returning to a job in Canada;

x) where the person's family is (if not in Canada will they be joining him there);

xi) the ties maintained with Canada (relatives, property, financial).

c) In the absence of documentary evidence or in conjunction with such evidence, the answers to these and such other questions as may be relevant will also serve as the basis for the making of decisions as to an applicant's eligibility for a returning resident permit.

d) In the case of children under 14 years of age, presentation of the holder's copy of a form IMM 1000 showing that the person has been landed, will normally suffice to establish his retention of permanent resident status and hence right to come into Canada.

e) Where an examining officer is of the opinion that a person seeking to come into Canada has abandoned this country as his place of permanent residence and therefore cannot be considered a returning resident, he should inform that person that he believes that he has ceased to be a permanent resident but that a final determination of his status can be made only by an adjudicator at an inquiry.

3) Returning Permanent Residents Falling Within A27(1)

a) Where a permanent resident who is believed to be described in A27(1) attempts to come into Canada, he should be allowed to enter as a returning resident (providing he has not abandoned Canada as his place of residence) and should be reported under the appropriate paragraph of A27(1). The examining officer should obtain sufficient information concerning his intended place or residence to enable him to be located should an inquiry be directed.

b) Detention of permanent residents described in A27(1) should be considered only where a strong and clearly identifiable threat to the public can be established.

c) Where a direction for inquiry and a warrant have been issued prior to the person's arriving at the port of entry, the examining officer will normally arrest the person and immediately notify a senior immigration officer, but where this is not practicable (one-man ports, etc.) the officer should contact a police officer for the arrest and detention. Before executing an existing warrant for arrest, the examining officer should first determine the reason for its issuance. Where an examining officer believes that a particular warrant is no longer necessary, for instance if the warrant was issued simply because the person's whereabouts were unknown and he was unaware that he was being sought for inquiry and there is no solid evidence which suggests that he would not now present himself as directed, the examining officer should contact a senior immigration officer or any other appropriate person referred to in Instrument I-29 to request that the warrant be cancelled. Where the request to cancel the warrant is refused or an appropriate official cannot be contacted, the warrant must be executed, and a senior immigration officer must then consider release.

d) Where a direction is made but no warrant issued prior to the person's arriving at the port of entry, the examining officer will notify a senior immigration officer who may then issue a warrant for arrest pursuant to A104(1) or allow the person to come into Canada and notify the appropriate CIC.

e) A127 ensures that those persons who have acquired and have not lost Canadian domicile under the 1952 Act, cannot be pursued retroactively for past non-subversive, non-narcotic offences, but puts them on notice that their domicile will not protect them against any offence committed under the present Act.

4) Reports on Persons Claiming Permanent Resident Status

Where an examining officer concludes that a person who claims to be a permanent resident has abandoned Canada and, for this reason decides to report him pursuant to Section 20(1), he shall cite as grounds for the report, the fact that the person is seeking to come into Canada as a returning resident but that in his (the examining officer's) opinion, he has ceased to be a permanent resident. He is, therefore, deemed by law to be an immigrant and, as such, is a member of the class of inadmissible persons described in A19(2)(d) since he has not complied with the requirement to be in possession of an immigrant visa (A9(1)) (see IMM 1093 (A20 report) at Appendix "D").

5) Entry as a Visitor

a) If the person accepts the examining officer's opinion and is willing to enter Canada as a visitor, he may be allowed to enter so long as the examining officer is satisfied that he complies with requirements for admission as a visitor and that he will leave at the expiry of his visitor's status. The usual terms and conditions of entry may be imposed. If the examining officer is not completely satisfied on both of these points, he shall report the person pursuant to A20(1).

b) In all cases where a person who had sought to come into Canada as a returning resident is allowed entry as a visitor, the person concerned shall be documented on a form IMM 1097 and the notation "IE 2.51 5)", placed beside the port stamp in his passport. A port file carefully documenting the reasons why the examining officer has concluded that he has lost status, should be created.

c) Examining officers are not to interpret paragraph a) as authority to refer persons to inland offices for a determination of their status. The above procedure simply allows for a second determination to be made in cases where the person concerned strongly and genuinely believes that the determination made at the port of entry was incorrect and subsequently decides to try to have his status altered.

6) Redetermination By Inland Officer

Refer to chapter IE 4.49.

7) Confiscation of CIICs or CIIRs (IMM 1000)

a) Paragraph 111(2)(b) of the Act empowers immigration officers to "seize and hold any travel or other document that may be used for the purpose of determining whether a person may be granted admission or may come into Canada". As the form IMM. 1000 is documentary evidence of the grant of landing, it may be used to determine whether the holder may come into Canada. Hence, it may be seized and held temporarily by an examining officer while he/she makes a determination of the holder's status and right to come into Canada.

b) If an examining officer determines that a person who produces a form IMM. 1000 as evidence of status is a permanent resident, he/she must return the form immediately. If the examining officer concludes that the person has ceased to be a permanent resident but allows him/her to leave or admits him/her as a visitor, he/she may not confiscate that person's form IMM. 1000.

c) If the examining officer concludes that the person is no longer a permanent resident and makes a subsection 20(1) report, he/she may seize and retain the form IMM. 1000 until the inquiry has been concluded.

d) Some officers have been seizing and forwarding to Headquarters the landing records (forms IMM. 1000) of persons whom they consider to have lost permanent resident status. If by removing a person's form IMM. 1000, immigration officers are purporting to make a final determination that the person has ceased to be a permanent resident, the Act gives them no such power. Permanent residents retain their status and their right to documentation identifying them as such, until an adjudicator has ruled that they have ceased to be permanent residents.

e) Immigration officers do not have the authority to retain landing records seized during examination unless they have reason to believe that the forms were fraudulently issued or obtained, or were issued to someone other than the holder and thus are being fraudulently used. R49(1)(a) states that documents seized in accordance with A111(2)(b) must be returned to the holder as soon as practicable. However, where an adjudicator has ruled that a person is no longer a permanent resident, a form seized by an immigration officer pursuant to A111(2)(b) may be retained under the authority conferred by A111(2)(c) in order to prevent improper use of the form. Forms seized under A111(2)(b) may be retained under A111(2)(c) in any case where an adjudicator has ruled that the person has ceased to be a permanent resident even if the person is admitted to Canada as a visitor.

f) The power to seize documents needed to determine whether a person is admissible or may come into Canada, does not extend to visa officers abroad since a person's admissibility can only be determined at a port of entry.

8) Disposition of Confiscated CIICs Where Adjudicator Rules Permanent Resident Status Abandoned

Confiscated CIICs should be retained by the office concerned until the case has been reviewed by the Immigration Appeal Board. They should then be forwarded to the Records Manager, NHQ, accompanied by a completed form IMM 1342 (see APP. "E") indicating that the subject was held by an adjudicator or the Immigration Appeal Board to have abandoned Canada as his/her place of permanent residence.

2.52 PERSONS WITH VALID VISITOR STATUS RETURNING FROM BRIEF VISITS TO PUERTO RICO

According to the U.S. Embassy, Puerto Rico has the same status as any other U.S. State and Puerto Ricans are treated in the same manner as all other U.S. citizens. A person who has obtained a U.S. visa is free to travel any part of the United States, including Puerto Rico. On this basis it has been concluded that visitors in Canada who wish to visit Puerto Rico are included in the visa exemption provided by paragraph 13, Schedule II, of the Immigration Regulations.

2.53 NON-IMMIGRANT STUDENTS IN THE U.S.A. SEEKING ENTRY TO CANADA

1) F-1 Academic & Language Training Students in the U.S.

F-1 students are granted admission to the U.S. for the duration of their student status at a particular level of studies, (i.e., primary, secondary school or a specific degree program) plus 30 days following completion of their studies. U.S. Immigration authorities must be contacted for any change in level of studies; however, adjustments in program and institutions are documented directly by the institution involved with notification provided to USINS. I-94 Forms (Arrival-Departure Record) are supplemented with form series I-20. F-1 students are documented and issued an I-20 ID Copy on arrival in the U.S. on which school transfers and changes in

programs are recorded as well as the "Duration of Status" or "D/S" notation. I-20 ID Copies must be retained by students and are required to be produced in order to facilitate re-entry to the U.S. following brief absences. Students entering Canada for brief periods should not, therefore, leave their I-20 forms with Canadian officials.

2) M-1 Vocational or Non-Acamedic Students in the U.S.

M-1 students are limited to specific expiry dates as well as being restricted to specific courses and institutions. Approval of USINS is required for any change. I-20 ID Copies are also issued to M-1 students on arrival in the U.S.

3) J-1 Exchange Students in the U.S.

J-1 exchange students entering sponsored programs are granted admission for the required period of the program only and are recorded on Form IAP-66 issued by the sponsor of the program in which the student is authorized to participate.

4) Proof of Valid Student Status

All foreign students must be able to establish their good standing at an educational institution. This is particularly important should a student attempt to re-enter the U.S. after a temporary absence. The best indicators of student status are I-20 ID Copies for F-1 and M-1 students and Form IAP-66 for exchange students.

5) Documentation Required for Entry to Canada

To ensure readmission to the U.S., a foreign student attending a U.S. educational institution, wishing to visit Canada, must be in possession of:

a) a valid passport;

b) a valid visitor visa, if applicable;

c) sufficient funds for his temporary stay in Canada and evidence of return transportation to the U.S.; and

d) I-94 Arrival-Departure Record and a current I-20 ID Copy or IAP-66 indicating authorization as a student at a U.S. educational institution or in a sponsored program or proof that he is currently studying at a U.S. institution or will continue to maintain student status in the coming year.

2.54 SIN PROCEDURES AT PORTS OF ENTRY

1) Distribution of SIN Kits (Form PIP 300)

a) Ports of entry will provide SIN Kits (form PIP 300) to all immigrants landed (16 years of age and over) and to all IMM 1102 holders. These persons will be counselled by examining officers to submit their SIN applications to the CEC at their destination in Canada for processing.

b) SIN Kits (form PIP 300) can be ordered from Central Index, P.O. Box 7000, Bathurst, N.B. E2A 4T1. In order that Central Index is able to meet the needs of all ports of entry, it is requested that no more than a 6 month supply be ordered at one time.

2) R19(1) Cases

There may be instances where visitors, granted entry under a paragraph of R19(1), will be receiving remuneration from a Canadian source. In view of the small numbers involved, such visitors will be documented on IMM 1097 to facilitate their applying for a SIN at their local CEC. In these cases, the IMM 1097 is the ONLY required document and must make reference to a paragraph of R19(1).

3) Seasonal Agricultural Workers

Ports of entry will certify the EMP 2780 of seasonal agricultural workers (see IS 15.32) and forward completed applications on a priority basis to Central Index (address above).

*2.55 DOCUMENTING WAIVERS AND EXEMPTIONS

1) Convention refugees or members of a designated class may be exempted from the requirement to obtain passports, travel or identity documents under R14(2), at the officer's discretion, or simply by regulation in the case of the designated classes. A third less frequent group of persons is applicants who have been exempted by Order in Council from the requirement to obtain such documents.

2) It is important that both visa and immigration officers state on the form IMM 1000 in either box 11 or in the "Remarks" section that the person has a waiver of or exemption from the requirement to have travel or identity documents. The notation should take the following form:

- Convention refugees: Waiver R14(2)
- Members of designated classes: Exempt IL 7(4)
- Other persons exempted by Order in Council: OIC/R14(1)

3) These entries on the form IMM 1000 will enable the ports of entry and inland CICs to grant landing without having to worry if the applicant should or should not have travel or identity documents.

2.56 DOCUMENTING TERMS AND CONDITIONS (see also 2.27 to 2.29)

1) All terms and conditions imposed pursuant to R23 must be written into the "Terms and Conditions" space on the appropriate form (e.g., IMM 1000, 1097, 1102, 1208) as the case may be.

2) Where a visa officer has written into the "Terms and Conditions" space the terms and conditions he suggests might be imposed, the examining officer, senior immigration officer and adjudicator have discretion to accept the suggested terms and conditions, strike out or change those which they do not wish to impose, and add any others which they deem appropriate and are contained in R23. All terms and conditions imposed must be initialled by the examining officer, senior immigration officer or adjudicator, as appropriate. Those which have been suggested by the visa officer but which are rejected will be crossed out with NO initial beside them.

3) There is NO need for the examining officer, senior immigration officer or adjudicator to explain his reasons for rejecting or changing a term and condition suggested by a visa officer.

4) Terms and conditions must be explained to the person concerned in all cases and the terms and conditions must be in keeping with R23.

2.57 PERSONS SEEKING POLITICAL ASYLUM

NOTE: Elements of this process have been exempted from public access in accordance with the terms of sections 15 and 16 of the Access to Information Act. Examination officers at ports of entry should read these guidelines in conjunction with the restricted chapter IC 1.54.

1) Immigration interviews

a) All persons being examined for immigration purposes must be interviewed in private. If officers experience third party interference, they should enlist the assistance of the local RCMP to ensure that the person being examined is not under any coercion when deciding whether or not to remain in Canada.

b) Where there is third party interference, the Director, Analysis and Intelligence, Operations Branch, Immigration (OPSB) should be advised immediately.

2) Protection of applicant

Immigration officers are not expected to personally provide physical protection to an individual. This function is performed by the appropriate local police authority. In cases in which the Canadian Security and Intelligence Service is not involved in providing the physical accommodation, immigration officials will make other arrangements for it. In all cases the police take the responsibility for protection. Where the immigration officer considers it advisable and offers safe accommodation, but the applicant refuses it, a written statement will be obtained from the person concerned acknowledging that the offer was made.

3) Accommodation Costs

Accommodation costs will normally be covered under the Immigrant Adjustment Program, following the Special Review Committee decision. Interim accommodation expenses are the responsibility of immigration officials where safety is a consideration.

4) Special situations - Authority to Detain an Aircraft

a) Although an immigration officer may examine a person who is on board an aircraft, one must be extremely careful in making a judgement that this person wishes to speak to Canadian authorities or wishes asylum. If a person approaches an official, requesting asylum while in the transit lounge and is then forcibly returned to the aircraft, it is reasonable to conclude that the person was seeking some sort of assistance. In such cases, the assistance of the local RCMP should be requested as there is likely a violation of criminal law involved (i.e. possible abduction).

b) If, however, an immigration officer was to receive information from a third party that an individual or a particular flight wishes to be examined, we would be hard-pressed to justify any action other than advising the third party that unless the individual in question presents himself to an immigration officer, there is nothing that can be done from an immigration perspective. If the third party wishes to pursue it with the RCMP, or some other authority, the choice is, of course, his. Authority to detain an aircraft should only be used under exceptional or unusual circumstances, and preferably after consultation with Regional and National Headquarters.

5) Requests for Consular Access

a) In the event that officials of the applicant's country wish to interview the person concerned, they will be advised that a request must be made through their embassy to the Department of External Affairs. At no time will immigration officials entertain a direct request for such an interview.

b) Upon receiving such a request, the External Affairs Officer will immediately report it to ISS which will refer the matter to the Director, Analysis and Intelligence, Operations Branch, Immigration HQ (OPSB) and that Directorate will liaise with the CIC.

c) At this point, the applicant will be informed that officials of his country (they may be named if the information is available) wish to interview him. He will also be informed that he may refuse to see them; if the applicant is reluctant, it will be explained to him that this refusal may result in (a) accusations that Canada is detaining him against his will and (b) difficulties at a later date if he applies to have his family join him abroad. Furthermore, CEIC officials should be aware that any undue delays in allowing access or a refusal by the applicant to meet with his country's officials could result in reciprocated difficulties for Canadian Consular officials in their requests to gain access to Canadians detained in the country concerned. Therefore, every effort will be made to persuade the person concerned to talk to his country's officials. The applicant will be assured that if the interview takes place, a Canadian official will be present with an interpreter for his protection. Refusal to be interviewed will be obtained in writing.

d) If the applicant agrees to see his officials, the CIC will make the necessary arrangements with the local RCMP and an interpreter and will advise OPSB, which will liaise with External Affairs and the CSIS in Ottawa. (Normally, these interviews will take place at a CIC; however, there may be occasions where the interview will take place elsewhere). External Affairs will advise the embassy concerned of the arrangements which have been made. In every case, the interview will be recorded.

2.58 REFUSAL OF HOLDERS OF VISITOR VISAS AT PORTS OF ENTRY

1) Where a person in possession of a visitor visa is refused admission at the port of entry, details of the case should be sent to the issuing post abroad via telex. All such reports will commence with "as requested - IE 2.58" and will contain the following details concerning the case:

a) Name and nationality of the subject of the A20(1) report.
b) Date and place of birth.
c) Visa number, date and office of issue.

d) Date and port of entry where subject sought to enter Canada.

e) Reason for refusal. In this regard, the following codes will be used to describe the following circumstances:

Reason for Refusal	Codes
Seeking permanent residence	A
Claims Convention Refugee Status	B
Intends to seek/take employment	C
Intends to follow a course of study	D
Has insufficient funds to maintain himself and dependants	E
Medical inadmissibility	F
Criminal inadmissibility	G
Expired visitor's visa	H
Other	I

f) Responsible CIC: Name of file number of CIC responsible for follow-up enforcement action (if different than (d)).

2) No other details are to be provided in these telexed reports. By following this procedure, such reports may be transmitted as unclassified messages.

3) In any case where the reason for refusal (section 5) is coded "I" (i.e., Other), the CIC will make a further report to the issuing post abroad by mail giving further details concerning the reason for refusal. In the case of Statesmen and Special Category Visitors, these reports must be mailed under Secret cover.

4) Information copies of the telexed report and of any subsequent written reports should be provided to:

Director, Port of Entry Control, CEIC
Phase IV, 9th floor, 140 Promenade du Portage
Hull, Quebec K1A 0J9

Department of External Affairs, Lester B. Pearson Building, Ottawa
Attention: Non-Immigrant Selection Processing (OSPC) Tower C4
NOTE: Telex message info line should be addressed to the attention of:
EANDIHULL/POE CONTROL/DIR. EXTOTT/OSPC.

5) The information received via this reporting system will provide the posts abroad with the means of receiving immediate feedback on their decisions in the area of a visitor visas. This will hopefully promote an improved quality of decision-making at the posts abroad and will also assist in monitoring the effectiveness of the visitor visa program.

2.59 PERSONS ORIGINALLY INCLUDED IN "IN TRANSIT" VISAS

The procedures at chapter IS 13.30 3) are directed principally to posts abroad, and CIC Mirabel. However, it may well be that a person who originally transitted Canada on the strength of an IMM 60 (see APP. "F") or IMM 1393 (see APP. "G") will approach a different port of entry seeking to visit or transit

Canada. The passports of these persons will not contain any evidence of their original transit through Canada, and officers should be aware of the possibility that these persons were included on an IMM 60 or IMM 1393 issued to groups of LOT (Polish) and CZECH Airline passengers in transit. These persons are NOT admissible to Canada unless they are in possession of valid visitor visas.

2.60 - 2.64 SPARES

2.65 PERSONS UNDER THE JURISDICTION OF THE IMMIGRATION APPEAL BOARD

1) Persons Returning to Canada for Appeal Hearings

A77 establishes that persons who are either removed or leave pending their appeals to the Immigration Appeal Board may apply to the Board for permission to return to attend their appeal hearings. The Board has wide powers to authorize return in such cases.

a) Where a person appears at a port of entry with the Board's "Authorization to Return", the examining officer will follow the procedures in IE 12.63 9).

b) Where a person wishes to return for some other purpose, the examining officer will follow the procedures in IS 1.47 and IE 12.64 1).

2) Examination of Persons Under Stay of Deportation Order

a) A58(2) establishes that a person who is under a deportation order that has been "STAYED" by the Immigration Appeal Board (A75(1)) may return to Canada without the Minister's consent if he leaves the country during his "STAY".

b) In such instances, examining officers must ascertain:

i) the identity of the person seeking to come into Canada;

ii) that the "STAY" has not expired;

iii) that there are no new grounds of inadmissibility, unknown to the Board at the time of the person's hearing.

c) Where the examination officer is of the opinion that the person does fall within another inadmissible class, he shall:

i) in the case of permanent residents, allow the person to come into Canada and make a report pursuant to A27(1);

ii) in the case of visitors, refuse admission and report the person pursuant to A20(1).

2.66 PERSONS EXTRADITED TO CANADA

(For instructions re persons extradited to Canada from the United States, see IE 14.44.)

1) In examining a person who is coming to Canada pursuant to extradition proceedings, an immigration officer should ensure that at a minimum, the following information is obtained for control purposes, either from the person being extradited or from his/her escort:

   a) in the case of a Canadian citizen - name, proof of citizenship;

   b) in the case of a Canadian permanent resident - name, date of birth, country of citizenship, date of landing in Canada, place where trial is to be held;

   c) other persons - name, date of birth, country of citizenship, place of permanent residence, place where trial is to be held.

2) Where a person extradited is not a Canadian citizen, the officer will forward a memorandum containing all information relevant to the person's admission (including a copy of the Minister's permit issued if application (see IE 2.37)) to the CIC nearest the place where the trial is to be held, with a copy to the Director of Enforcement in that region.

3) Where a CIC has been notified that a person has been extradited to Canada and will be standing trial in the area serviced by the CIC, the normal investigative procedure will take place:

   a) where the person is a Canadian permanent resident, a report must be made should he/she fall within A27(1);

   b) where the extradited individual who is neither a Canadian citizen nor a permanent resident was found to be admissible and was granted visitor status when he/she was examined at a port of entry and where he/she subsequently falls within A27(2), a report must be made;

   c) where the person who is not a Canadian citizen or a permanent resident is authorized to come into Canada under a Minister's permit for the purpose of standing trial and the judicial process has been concluded, it may become necessary to consider the cancellation of the permit and to commence removal proceedings as described in IS 10.53.

4) No enforcement action other than writing any necessary report, will be taken until all Court proceedings related to the extradition are completed.

5) There will be times when a person, other than a Canadian citizen or a permanent resident, will be extradited to Canada and will be acquitted by the Court.

a) In instances where the person concerned was found to be admissible and was granted visitor status at the time of extradition, an immigration officer will counsel the individual as to his/her immigration status and will ensure that the person is fully aware that he/she is expected to leave Canada on or before the date on which the visitor status expires.

i) Where the person is willing to leave Canada but lacks the financial means to do so, a memorandum will be sent from the CIC to the appropriate Regional authority (see Instrument I-15 at IL 3) requesting financial assistance for the person to leave Canada.

ii) Where the person fails to leave Canada by the specified date, a report pursuant to A27(2) must be made, for example 27(2)(e).

b) In instances where the person concerned was allowed to come into Canada under the authority of a Minister's permit at the time he/she was coming forward under extradition, officers should follow the procedures outlined at IS 10.53 and, if appropriate, IE 14.43.

2.67 CANADIAN LAWS OFFSHORE APPLICATION ACT (CLOAA) REPORTING REQUIREMENTS

a) With the proclamation of the CLOAA, any artificial island constructed or placed on the continental shelf and any structure or marine installation that is anchored or attached in connection with its exploration or the exploitation of its mineral or non-living resources -- such as an oil rig within the 200 mile economic zone or within the edge of the continental shelf -- are now considered to be Canadian territory.

b) Paragraph 12(2)(a) now reads as follows:

"For the purpose of this section, a person who leaves Canada and thereafter seeks to return to Canada, whether or not that person was granted lawful permission to be in any other country, shall, unless the person is in a prescribed class of persons be deemed to be seeking to come to Canada."

c) As a result, the obligation to report exists under the following circumstances:

i) The first time that the non-resident makes contact with:

an artificial island constructed, erected or placed on the continental shelf; or

any marine installation or structure that is anchored or attached to the continental shelf

in connection with its exploiration or

the exploitation of its mineral or non-living resources.

In theses instances, foreign workers will therefore need to present themselves for examination at the nearest port of entry staffed with immigration officers before boarding an artificial island, marine installation or structure within the 200 mile eonomic zone limit or the edge of the continental shelf.

Where this is not possible, special arrangements for examining the crew at sea may be required. The employer should contact the local

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Canada Immigration Centre or Immigration Regional office to ask whether or not special arrangements are in order.

ii) Every time the foreign worker returns to the artificial island, marine installation or structure, after having left Canadian Territory, he or she is deemed to be seeking re-entry.

d) In these instances, we will be relying in large part on voluntary compliance and, for the time being, do not expect any enforcement action until regulations are in place to address the issue of persons who will not be deemed to be seeking re-entry into Canada each time they have left the artificial island, marine installation or structure, and seek to return to it after being away from Canada.

e) For information on employment authorization see IS 15.

2.68 ELDERHOSTEL PROGRAM

1) Elderhostel is a non-profit coordinating agency associated with some 600 colleges/universities in all states of the U.S.A., in eight Canadian provinces and in Great Britain, France, Denmark, Norway, Finland and Italy.

2) Elderhostel arranges short-term residential campus-based general interest programs for persons 60 years of age and over. The lectures/series are of one week duration, are non-credit, do not involve examinations and are taken in conjunction with the individual's visit.

3) The Elderhostel programs are more along the lines of seminars presented to interested tourists, rather than academic courses and participants should therefore be admitted as ordinary visitors.

2.69 HOLDERS OF CANADIAN CERTIFICATES OF IDENTITY

Canadian Certificates of Identity may be issued by External Affairs to permanent residents of Canada who have not acquired Canadian citizenship and who are unable to obtain other travel documents. A "Canadian Certificate of Identity" is not to be confused with a Canadian "Travel Document (Convention of July 1951)". The latter are issued to persons who have been admitted to Canada as refugees in accordance with "The 1951 Convention Relating to the Status of Refugees" and "The 1967 Protocol to the Convention Relating to the Status of Refugees". The holder of a Certificate of Identity must be allowed (within the validity of the Certificate) to return to a Canadian port of entry and come into Canada physically, whether or not he is allowed to come in officially as a returning resident.

2.70 MINISTER'S PERMITS (See also IS 10.36, IE 2.66 and IE 14)

A37(1) gives the Minister discretionary authority to allow an otherwise inadmissible or removable person to come into or remain in Canada. Minister's permits may be used only where a person's presence in Canada is desirable on humanitarian or compassionate grounds or is otherwise in the public interest. In addition, the issuance of a Minister's permit may be appropriate in the case of persons who are arriving at a port of entry pursuant to extradition proceedings, or in the case of those persons seeking to come into Canada directly from the United States where it may be desirable to ensure that Canada's interests are protected under the terms of the Reciprocal Arrangement for the Exchange of Deportees. Otherwise, the Minister's permit is not to be used where discretion under A19(3) can be exercised. A Returning Resident Permit is not to be referred to as a "permit".

2.71 LAISSEZ-PASSER

1) Nature and Purpose

Laissez-passer are usually issued by Canadian Missions abroad to Canadian citizens and are intended as evidence to Canadian Customs and Immigration officers that for sufficient reason the bearers should not be subjected to the usual full examination at the border, e.g., they may be carrying secret documents. Laissez-passer are used sparingly and issued only when the Canadian Mission concerned vouches for the complete reliability of the bearer and there is sufficient reason for the issuance of the laissez-passer. In rare cases, they may be issued in lieu of diplomatic or courtesy visas.

2) Form

Laissez-passer are issued in the following form:

"The Canadian _____ presents his compliments to the Chief Officers of Customs and Immigration at the International Boundary (or the port of entry in Canada) and commends to their good offices the bearer of this letter (here the name and title of the person concerned, and the purpose in entering Canada will be stated).

M _____ is the holder of passport No _____ _____ The Canadian _____ would appreciate the extension of the usual courtesies and facilities to M _____ _____ "

3) Forwarded to NHQ

The seal of the office is affixed to this document. The laissez-passer is collected from the bearer by the immigration officer at the port of entry and forwarded to NHQ.

2.72 EXAMINATION OF PERSONS RESIDING OR SOJOURNING IN THE UNITED STATES (A20(2) and A23(4))

1) Reportable Persons Seeking Admission when Senior Immigration Officer is not Reasonably Available

a) A20(2) states that an immigration officer at a port of entry may direct an inadmissible person who is residing or sojourning in the United States to return to that country when a senior immigration officer is not reasonably available to review a report under A20(1).

b) In such cases, the Act does not require that an A20(1) report be written prior to the issuance of a Direction to Return to the United States under A20(2) - (IMM 1237) (see Appendix "J").

c) When a person reappears at a port of entry following a Direction under A20(2) and is considered to be inadmissible, a report under A20(1) is required if a senior immigration officer is available to review it.

d) Should an inadmissible person seek to come into Canada at a time other than that indicated on the IMM 1237, the examining immigration officer may direct the person to return to the United States again if a senior immigration officer is still unavailable.

2) Return to the U.S.A. of Persons Residing or Sojourning in that Country

a) The Federal Court of Canada Trial Division in the case of M.Y. El Jechi and Rokia El Jechi commented on the term "sojourning" as it applies to persons who may be directed to return to the U.S.A. to await inquiry.

b) The Court noted that the best definition of the word sojourning is found in Black's Law Dictionary. "Sojourning. This term means something more than 'travelling', and applies to a temporary, as contradistinguished from a permanent, residence." The judge indicated that "Sojourning is more than merely 'passing through'.

c) In this case the subjects' airline tickets indicated that they had arrived in New York City late in the day after a lengthy flight from the Middle East via London. The tickets further indicated the subects were booked on the first available flight the next day from New York to Burlington, Vermont. The subjects travelled on this flight and were met by Counsel who drove them to the Canadian border where they requested refugee status. The Court took the position that the persons could not be directed to return to the U.S.A. because they had not sojourned in that country.

d) It is noteworthy that the Court's position is based on the specific facts of this case. The findings apply to cases where applicants can demonstrate that they were not sojourning in, but rather were, "passing through", the U.S.A. in order to arrive at the Canadian border.

e) Where persons have been admitted to the U.S.A. and have remained in that Country for even a short period of time for purposes other than direct and immediate travel to the Canadian border it is our position they have sojourned in the U.S.A. and can de directed back to that country.

3) Persons Returning to Canada to Appear Before an Adjudicator

a) A person who approaches a port of entry at the time specified on a Direction to Return to the United States under A23(4) - (IMM 1238) (see Appendix "K") for the purpose of appearing for inquiry will be referred directly to the adjudicator.

b) A person who has been directed to return to the United States under A23(4) and who seeks to come into Canada for reasons other than to appear for inquiry is considered to be seeking admission. If such a person remains inadmissible and if an adjudicator is not reasonably available the person concerned may again be directed to return to the United States to await the inquiry date.

c) In these circumstances it is not necessary to write a new A20(1) report.

d) Officers should bear in mind, however, that time may be required by the person concerned to allow for travel to the location of the inquiry and thus, the circumstances may warrant allowing the person forward at an appropriate time in advance of the inquiry date. This is particularly so if the person approaches a port of entry other than that at which he/she was originally reported.

2.73 DETENTIONS ORDERED AT PORTS OF ENTRY

1) Preamble

a) Before applying the following procedures, officers must be completely familiar with the detention philosophy outlined at IE 2.03 and 2.15 which, in essence, states that A103.1(1)(a) is NOT to be perceived as requiring the detention of undocumented arrivals. Once an examining officer is satisfied as to an individual's identity through judicious questioning (see 2) hereunder), detention under A103.1(1)(a) is only to be automatic if the person falls within these categories:

i) health risk;

ii) danger to the public, pending criminal trial, criminal involvement, wanted abroad (see also IE 10.40 5));

iii) pending removal;

iv) pure immigration case, i.e., not a refugee claimant and should be removed relatively quickly.

b) Keeping this in mind, the following procedures should be applied in only a relatively few cases throughout the year.

2) Establishing Identity

a) i) The requirement to establish identity is normally met through presentation of a valid passport, travel or identity document, obtained and issued by a proper authority. In the absence of such a document, the person may present other material to support the identity claim. Examples would include correspondence which could verify elements of the person's story, records of education, employment, marriage or birth, medical histories, travel itineraries and even credit cards. Officers are to consider the merits of such material when assessing the person's story.

ii) Examining officers need to establish the name, date and place of birth, citizenship, city and country of residence and the itinerary for the trip to Canada. Testimony from relatives or friends who are permanent residents or citizens of Canada may be given consideration. Officers will have to weigh the supporting documentation, if any, and the person's testimony to determine credibility when making a decision with respect to detention.

b) Detailed questioning at the initial interview will lay the groundwork should further investigation be needed to confirm a person's identity. Avenues of questioning are to be carefully documented in chronological order. This could later be of assistance to a Case Presenting Officer (CPO) in satisfying an adjudicator that reasonable efforts are being made to identify an individual (see IE 10.41).

c) Since a Senior Immigration Officer (SIO), continuing a detention under A103.1(1), is guided by the time a person was first detained (see IE 10.41), officers are to record the time at which detention commenced.

d) i) If there is no SIO available to review the A20 report, and the person concerned cannot satisfy the examining officer as to identity, an immigration officer will detain the person pursuant to A103.1(1), if appropriate, and refer the person to an SIO.

ii) In cases where the person arrived from a point in the United States, the examining officer is to direct the person back to the U.S. pursuant to A20(2). Upon return, the person is to be examined by an immigration officer who will detain pursuant to A103.1(1), if appropriate, and refer the person to an SIO.

3) Rights of Detained Persons

a) Rights to Counsel/Reasons for Detention

i) Persons detained at ports of entry are to be informed immediately of their right to counsel (see App. D to Chapter IE 10), and given full reasons for the detention.

ii) The immigration officer first detaining a person is to give that notice stating:

"I am detaining you for further examination"; OR

"I am detaining you because in my opinion you are not a genuine visitor and I therefore have to report you to a Senior Immigration Officer."

iii) Persons indicating a wish to retain counsel are to be given every opportunity to do so, including telephone calls or immediate consultation with counsel if present. Privacy in making the telephone calls or counsel consultation on site must be ensured if requested by the detainee. If for any reason the detainee is unable to contact counsel, there is no "denial" of the right to retain and instruct counsel.

b) Rights Under the Vienna Convention on Consular Relations

i) The 1963 Vienna Convention on Consular Relations (acceded to by Canada on July 18, 1975), establishes the rules of conduct, privileges and responsibilities accredited to signatory states. Subparagraph 36(1)(b) of the Convention reads:

"If he so requests, the competent authorities of the receiving State shall, without delay, inform the Consular post of the sending State if, within its consular district, a national of that state is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed the Consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph."

ii) As far as this Commission is concerned this means that whenever a person is detained for immigration purposes, that person must be informed (IMM 1213 - see App. "E" to Chapter IE 10) of his/her rights under the Convention. If the detainee requests it, the Consular representative of his/her country must be contacted without delay.

c) Privacy Act

In addition to the restrictions on release of information outlined in b) above, the Canadian Privacy Act also prohibits release of information on a detained individual to any third party without the individual's consent (see also para 4 b)v) to Appendix B to IE 10).

*2.74 EXAMINATION AND DETENTION AT PORTS OF ENTRY

1) Introduction

While it normally is not necessary to use it, immigration officers have the authority to detain persons at examination. Detention normally is not necessary at examination because the majority of applicants are law abiding persons who wish to cooperate and thereby minimize delays. When persons do not cooperate at examination and indicate or make an effort to leave the interviewing area it may be necessary to detain them in order to complete the examination. (For information on how to proceed with detention see "Rights of Detained Persons" in section 2.73 entitled "Detention Ordered at Ports of Entry").

2) Counsel at Examination

The right to retain and instruct counsel as stated in the Canadian Charter of Rights and Freedoms does not confer a right to counsel at a routine examination. However, where the circumstances of the case require detention pursuant to A12(3)(b), or 20(1) or 23(3)(a) and if counsel is already present, or if he can arrive within a short time the presence of counsel at the continuation of the examination should be allowed. As a minimum, providing a detainee with a reasonable opportunity to contact counsel by telephone before continuing with the examination will satisfy "Charter" requirements.

3) Adjournment of an examination (A12(3)

The power to release subject to conditions was not granted immigration officers under A12(3) as detention was presumed to be of a short duration. However, the power to detain is discretionary and should be used only where there is good reason to believe the person will not appear for resumption of the examination or would endanger the Canadian public. Officers should ensure that in cases of persons detained during adjournment of an examination, the examination be resumed as soon as practicable.

4) Report under A20

As a senior immigration officer usually will be readily available to receive reports under A20, persons detained under this provision of the Act should have their case reviewed as soon as possible and in any event not later than four hours from the time the report is written unless A20(2) applies.

5) Detention by Senior Immigration Officers Pursuant to A23(3)

Senior immigration officers should address themselves to a number of factors in determining whether to release an individual pending an inquiry:

a) Does the Individual Pose a Danger to the Public?

Medical, police information and the individual's behaviour during immigration proceedings should be considered.

b) Is the Individual Likely to Appear for the Inquiry?

The answer to this question must be the sum of a number of considerations; however, overall, the assumption should be that the individual is likely to appear rather than the other way around. Consideration should be given to such factors as whether the individual has violated a previous bond, changed his name or moved continuously or provided a phoney address to avoid detection, lied or tried to escape custody, has no place of abode, has returned to Canada without consent following previous deportation, has limited funds, has a criminal record, has previously failed to appear for judicial proceedings or for interview or examination, has a responsible family in Canada or can provide a meaningful bond or security deposit.

c) Length of Time until Inquiry is Scheduled

The benefit of the doubt concerning such matters as likelihood of appearance should weigh more heavily in the detainee's favour in cases of distant inquiry dates being set through no fault of the detainee.

2.75 DECEASED PERSONS AT PORT OF ENTRY

Where a person, other than a Canadian citizen or permanent resident, dies at a port of entry, the procedure outlined in R55 must be followed.

2.76 PERSONS ALLOWED TO LEAVE CANADA

1) Issuance of IMM 1282 (Allowed to Leave Canada)

When the decision is made that a person should be allowed to leave Canada (2.15), the immigration officer or senior immigration officer, as applicable, will complete one copy of form IMM 1282 (see APP. "H") so that the individual can present it to an immigration officer of the country concerned.

2) Decision Whether to Detain

When issuing the IMM 1282 (which is merely to facilitate the person's return to the country concerned), a decision must be made whether or not to detain the person pending physical departure from Canada. Normally, detention will not be necessary, and the person will either be turned over to the responsible transportation company (A88), or allowed to return by his own conveyance.

3) Local Tally Sheets

Since copies of completed forms IMM 1282 will not be retained, ports of entry will maintain, for a two-year period, locally prepared tally sheets showing names or persons issued IMM 1282, dates issued, and countries concerned. This will enable RHQ and/or NHQ to obtain information on persons "allowed to leave Canada" as and when necessary without the ports of entry being required to retain individual files.

2.77 ENTRY OF DIPLOMATS

1) Persons coming to Canada on posting including their families, will normally be in possession of diplomatic or official visas indicating the "duration of stay" as "sixty days" and the "purpose of stay" as "posted to _____ Embassy". Such persons may be travelling on diplomatic, official, special, service or regular passports. Examining officers should simply stamp their passports, thereby authorizing entry for a period of three months. During this period, the passports will be forwarded by the person's embassy, consulate, etc., to the Protocol Division of the Department of External Affairs, who will issue a diplomatic or official "acceptance", which indicates that the person is accredited to Canada. The passports will then be sent by External Affairs to the Canada Immigration Centre, Ottawa where the passport will be notated "authorized to remain in Canada for duration of validity of (Diplomatic or Official) acceptance and any extensions thereof". This will meet the requirements of A26(2).

2) a) By virtue of R19(1)(a), diplomats, officials and their staff, are exempt from employment authorization for the purpose of carrying out their official functions. Dependants who wish to work in occupations unrelated to Embassy functions are required by regulation to obtain employment authorizations. Persons employed by a diplomat, consular officer, representative or official as members of his staff are exempt from having to obtain an employment authorization for that purpose even if they have not been accredited by External Affairs (see R19(1)(a)). However, such persons are subject to all other visitor requirements.

b) An Honorary Consul is not a career diplomat of the sending state, and must be, by definition, a Canadian citizen or permanent resident. He is not empowered to engage staff as members of the Consulate under the provisions of the Vienna Conventions on Diplomatic and Consular Relations. Unless such staff are appointed by the sending state and recognized by the Department of External Affairs, Office of Protocol, they can only be engaged by an Honorary Consul as a private citizen employer and an employment authorization would be required.

3) Except for dependants of diplomats, all dependants of persons coming to Canada on posting who wish to study require student authorizations (see IS 14.26).

4) Student and employment authorizations for the above may be applied for from within Canada. In order to facilitate the admission of persons coming to Canada on posting, the completion of these authorizations will not be done at ports of entry, unless specifically requested by the persons concerned.

5) Undoubtedly, violations of employment and student authorization requirements will occur. Although the Immigration Act takes legal precedence over international conventions, such as the Vienna Convention, it is the policy of the Commission not to go to inquiry on a person as long as he is an accredited member of a foreign mission. Where circumstances warrant such action, an accredited person may be declared "persona non grata" and his government requested to have him leave Canada. However, if his accreditation is revoked, inquiry action may be taken.

6) Clearly, "persona non grata" action or a cancellation of accredited status is unlikely in cases involving violations of student authorization requirements, particularly since such action would jeopardize educational possibilities for dependants of Canadian government officials who are posted abroad. Therefore, dependants of persons on posting in Canada who have studied without authorization and who come to the attention of an immigration officer may be issued a Minister's Permit.

7) The situation with respect to diplomats, staff and their dependants taking employment in outside jobs is quite different. Working without authorization will not be condoned. Normal employment authorization procedures apply, bearing in mind that CEC validation may not always be necessary if a bilateral reciprocal agreement between the sending state and Canada exists allowing dependants of Canadian government officials to work in the sending state without any validation procedure (see R20(5)(e)(iii)).

8) In order to put cases with External Affairs involvement into a more equitable "headquarters to headquarters" context, violations of the Act or Regulations, other than student violations, involving persons accredited to foreign missions and cases involving persons who are employed by foreign missions and who have not been properly accredited, will be dealt with at NHQ. A section 27(2) report (if appropriate) and a memorandum from the Manager of the CIC outlining the circumstances of the case should be addressed to:

Director, Case Review
Immigration Program Management Branch
Employment & Immigration HQ
Ottawa, Ontario
K1A 0J9

Memoranda and reports should be sent via regional headquarters.

2.78 ADMISSION OF U.S. IMMIGRANT VISA SEEKERS

1) Pursuant to Item 9 of Schedule II persons seeking to enter Canada as visitors for the express purpose of attending a visa interview at a United States consular office are exempted from the requirement to obtain a visitor's visa where they are in possession of evidence satisfactory to an immigration officer that they will be granted re-entry to the United States. A letter "inviting" a person to appear for interview at a United States Consulate in Canada does not constitute evidence of the ability to re-enter the United States unless the letter specifically guarantees re-entry or "parole" into the United States should the applicant be refused a visa.

2) Visa seekers failing to present a letter which guarantees re-entry to the U.S. must be closely examined to ensure that they comply with all requirements, for admission as visitors, including Canadian visitor visas where applicable.

3) Visa officers will not issue visitor's visas to visa seekers who are unable to satisfy them that they will be re-admitted to the U.S. or to persons, who, in their opinion, do not comply with all requirements for admission as a visitor.

2.79 FOREIGN CONSULAR OFFICERS (To be read in conjunction with para. 12 of Schedule II of the Regulations)

1) Protocol Division of the Department of External Affairs issues a stamp (see Appendix "B") when granting acceptance to consular officials at foreign consulates in Canada. Acceptance will normally be valid for five years.

2) The stamp is NOT used when granting acceptance to consular officers at diplomatic missions (Embassies and High Commissions) as these officials usually carry a "diplomatic" designation.

2.80 PERFORMING ARTISTS

1) Performing artists in a group of 15 or more are exempt from the need of employment authorizations (R19(1)(d)). This number is not necessarily made up only of artists but may include essential accompanying staff members. The latter shall usually be those members of an artist's entourage who are considered necessary to facilitate the rendition of the art itself by the artist (members of the band, persons responsible for musical arrangements, special effects, make-up and costume aides, etc.).

2) Care should be taken not to exclude persons when, because of the need to find and train Canadians as replacements, this will account for unjustified and unnecessary delays and cost increases. The admission of accompanying band members is often required to obviate the need for time-consuming and costly rehearsals with Canadian replacement musicians.

3) While not requiring employment authorizations, these groups will be documented on IMM 60 (see APP. "F") at the ports of entry for local control purposes. When a bond is taken on IMM 514 (see IE 3.20 2)), a completed copy of the IMM 60 will accompany copy 2 of the IMM 514 to NHQ. Otherwise, copies of the IMM 60 are NOT required at NHQ.

2.81 ENTRY OF USA GOVERNMENT OFFICIALS

1) Reciprocity discussions recently concluded between Canada and the US have resulted in new procedures concerning the entry of official US Government personnel assigned to temporary postings in Canada. Such personnel will include US Immigration and Naturalization Service (USINS), US Customs officers, the International Joint Commission (IJC), US grain inspectors and other US Government officials in possession of official US Government passports and assigned to temporary postings in Canada.

2) The officials, on first entry, will be in possession of official US Government passports and are to be dealt with in much the same manner as now outlined in IE 2.77 - Entry of Diplomats - except that such officials will not enjoy the benefits and privileges accorded to diplomats. As US citizens, such officials are in the visa exempt category and many will not be in possession of official visas normally issued prior to their postings. Notwithstanding this, examining officers should stamp these passports and authorize entry as visitors for a period of ninety days. The officials will then forward their passports to the US Embassy, Ottawa, which in turn will obtain an official acceptance from the Protocol Division of External Affairs. The passports will then be sent by Protocol to the appropriate CIC for issuance of the usual "Duration of Status" stamp.

3) The US Embassy in Ottawa will also be forwarding passports for officials currently serving in Canada so that they may also receive official acceptances and the "Duration of Status" stamp. As a transitional procedure, US officials currently in possession of CEC validation exempt employment authorizations which are about to expire, may be issued short term extensions until such time as they receive their official passports and official acceptance from Protocol.

4) U.S. government officials seeking temporary entry for less than 90 days for the purpose of performing duties and providing services for their government in Canada do not require employment authorizations and may be dealt with as visitors.

2.82 ON...SPARES

IMMIGRATION SECONDARY REFERRAL LIST

(Reference at IE 2.46)

Category and Type of Persons to be Referred	Reason for Referral
1. General	1. General
a) Persons considered to come within the inadmissible classes in 19(1) or (2) of the Immigration Act, 1976.	a) Determine admissibility.
b) Persons whose citizenship or permanent resident status is doubtful based on questioning and documentation submitted.	b) Determine right to come into Canada.
c) Persons whose admissibility cannot be determined because, for reasons other than a lack of knowledge of English, French or any other language, they are unable, or refuse, to answer questions.	c) Determine admissibility or whether rejection order should be issued.
d) Persons who have been refused admission to the U.S.A. or to another country.	d) Determine admissibility.
2. Canadian Citizens	2. Canadian Citizens
a) Persons coming forward for the first time when born abroad before February 15, 1977 or those persons born after February 14, 1977 and not in possession of documentary evidence of citizenship.	a) If the child's birth is not registered, he/she is not a Canadian citizen. The child is issued a Minister's Permit and parents are counselled regarding citizenship procedures.
b) Persons in possession of an Emergency Passport issued by a Canadian Embassy official abroad to facilitate their return to Canada.	b) These documents are to be surrendered at port of entry and forwarded to External Affairs.

c) Persons who are deported or extradited from another country.	c) To establish Canadian citizenship and perhaps complete instructions in b) above.
3. Permanent Residents	3. Permanent Residents
a) Persons who have presented proof of "landing" in Canada, but are unable to provide documentary evidence that they are the person described in the "landing document".	a) To establish the bona fides of the document through a routine FOSS check.
b) Where the person has been away for more than 183 days in any twelve-month period and is not in possession of a valid Returning Resident Permit.	b) To determine if the person falls within A24(1) or (2).
c) Persons who are deported or extradited to Canada from any country.	c) To verify claim to permanent residence.
4. Immigrants	4. Immigrants
Any person who seeks permanent resident status, whether in possession of documentation or not.	Completion of documentation and to determine admissibility.
* 5. Visitors	5. Visitors
a) Persons intending to remain more than six months.	a) Documentation.
b) U.S. citizens and U.S. resident aliens not in possession of passports or other travel documents who indicate an intention to remain more than three months.	b) Documentation.
c) Persons who are citizens of countries whose referral has been requested by Immigration.	c) Determine if passport is genuine.
d) Seamen coming forward to join the crew of a ship.	d) Documentation.

e) Persons claiming refugee status or political asylum.	e) Detailed examination, taking of examination under oath.
f) Persons coming forward to seek or undergo medical treatment.	f) Detailed examination - verification required.
g) Persons transiting through Canada while under escort.	g) Detailed examination, documentation, possible setting of terms and conditions.
h) Persons being extradited to Canada or those coming forward to attend trial, whether escorted or not.	h) Detailed examination, documentation, possible setting of terms and conditions.
i) U.S. visa seekers.	i) Detailed examination and documentation.
j) Young children, accompanied or alone, who arouse concern about the purpose of their trip to Canada or their welfare while in Canada.	j) Detailed examination and documentation.
k) Persons who are under docket control or who are otherwise in difficulty with USINS.	k) Detailed examination.
l) Persons in possession of Emergency Travel Documents.	l) Detailed examination.
m) Persons whose arrival has been requested to be made known to Immigration.	m) Action as required by need to know.
n) Persons intending to seek or take employment.	n) Documentation and verification of necessary authorization.
o) Persons intending to follow any course of study.	o) Documentation and verification of necessary authorization.
6. <u>Minister's Permits</u> Permit holders who are making their first arrival in Canada or concerning whom there is some doubt as to identity and/or document validity.	6. <u>Minister's Permits</u> Detailed examination - verification of Minister's Permit.

IE 2 App. "B"

Employment and Immigration Canada / Emploi et Immigration Canada

VISITOR RECORD / ***FICHE DU VISITEUR***

C 026 000 026

HEADQUARTERS' USE ONLY - *RÉSERVÉ À L'ADMINISTRATION CENTRALE*

CLIENT ID - *ID DU CLIENT*

TYPE OF CASE/*GENRE DE CAS* (23)

SECTION A

01 4 1 03 04

(25) SURNAME, GIVEN NAMES/*NOM DE FAMILLE, PRÉNOMS*

NAME FLAG *INDICATEUR DU NOM* (55)

BIRTH DATE/*DATE DE NAISSANCE* (60) D-J M Y-A 1

COUNTRY OF BIRTH/*PAYS DE NAISSANCE* (77)

COUNTRY OF CITIZENSHIP/*CITOYEN DE* (80)

SEX/*SEXE* 1-M/*H* 2-F/*F* (83)

MARITAL STATUS/*ÉTAT MATRIMONIAL* (84)
1 SINGLE *CÉLIBATAIRE* 2 MARRIED *MARIÉ(E)* 3 WIDOWED *VEUF (VEUVE)* 4 DIVORCED *DIVORCÉ(E)* 5 SEPARATED *SÉPARÉ(E)*

TOTAL PERSONS *NBRE TOTAL DE PERS.* (85)

FAMILY STATUS INDICATOR *INDICATEUR DE LA SITUATION PAR RAPPORT À LA FAMILLE* (87)
1 PRINCIPAL APPLICANT *REQUÉRANT PRINCIPAL* 2 SPOUSE *CONJOINT* 3 DEPENDANT *PERSONNE À CHARGE*

COMPLETE ADDRESS OUTSIDE CANADA/*ADRESSE AU LONG À L'EXTÉRIEUR DU CANADA* (88)

NAME AND COMPLETE ADDRESS WHERE YOU CAN BE REACHED IN CANADA/
NOM ET ADRESSE AU LONG OÙ L'ON PEUT VOUS REJOINDRE AU CANADA (91)

SECTION B — RECORD OF ENTRY — FICHE D'AUTORISATION DE SÉJOUR

TERMS AND CONDITIONS/*CONDITIONS*

VOID

STATUS *ÉTAT* (120)

ACCOMPANYING FAMILY MEMBERS/*MEMBERS DE LA FAMILLE QUI VOUS ACCOMPAGNENT*

NAME/*NOM*	DATE OF BIRTH *DATE DE NAISSANCE*	RELATIONSHIP *LIEN DE PARENTÉ*

I CERTIFY THAT THE PARTICULARS OF MY IDENTITY ARE CORRECT AND ACCEPT THE TERMS AND CONDITIONS SET OUT HEREIN
JE CERTIFIE QUE LES RENSEIGNEMENTS SUR MON IDENTITÉ SONT EXACTS, ET J'ACCEPTE LES CONDITIONS PRÉCITÉES.

VALID UNTIL/*DATE D'EXPIRATION* (122) D-J M Y-A

BONDED/*CAUTIONNEMENT* (128) 1 YES *OUI* 2 NO *NON*

BOND NUMBER *N° DU CAUTIONNEMENT*

SIGNATURE OF VISITOR *SIGNATURE DU VISITEUR*

DATE SIGNED/*SIGNÉ LE* (129) D-J M Y-A

CANADA IMMIGRATION CENTRE *CENTRE D'IMMIGRATION CANADA* (136)

SIGNATURE OF IMMIGRATION OFFICER *SIGNATURE DE L'AGENT D'IMMIGRATION*

REMARKS/*OBSERVATIONS*

AFFIX PHOTOGRAPH

APPOSER LA PHOTO

MEDICAL COMPLETED *FORMALITÉS MÉDICALES ACCOMPLIES* (140) 1 YES *OUI* 2 NO *NON*

SPECIAL PROGRAM/*PROGRAMME SPÉCIAL* (168)

DATE OF ORIGINAL ENTRY *DATE D'ENTRÉE INITIALE* (180) D-J M Y-A

EXTENSION NUMBER/*CODE DE PROLONGATION* (186)

ORIGINAL SERIAL NUMBER *N°DE SÉRIE INITIAL* (188)

OFFICE FILE NO./*N° DE RÉFÉRENCE DU BUREAU*

ERROR-*ERREUR* (198)

L-T VISITOR *VISITEUR DE LONGUE DURÉE* (202)

COST RECOVERY *RECOUVREMENT DES FRAIS* (203)

RECEIPT NO -*N° REÇU*

UTILITIES *LIBRES* (206) (207) (208) (209) (210) (211)

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IE 2
APP. "C"

PLEASE TYPE OR USE BLACK BALL POINT PEN – PRESS FIRMLY

VEUILLEZ DACTYLOGRAPHIER OU UTILISER UN STYLO À BILLE NOIR ET APPUYER FORTEMENT

Employment and Immigration Canada Emploi et Immigration Canada

Returning Resident Permit ***Permis de retour pour résident permanent***



IMMIGRATION

R 000 750 08

Type of Case / *Genre de cas*

Surname Given Names / *Nom de famille, prénoms*

Name Flag / *Indicateur du nom*

Birth Date / *Date de naissance* (D-J / M / Y-A) 1

Country of Birth / *Pays de naissance*

Country of Citizenship / *Citoyenneté*

Sex / *Sexe*: 1 Male / *Homme* 2 Female / *Femme*

Marital Status / *État matrimonial*: 1 Single / *Célibataire* 2 Married / *Marié(e)* 3 Widowed / *Veuf(veuve)* 4 Divorced / *Divorcé(e)* 5 Separated / *Séparé(e)*

Date of Landing / *Date de l'octroi du droit d'établissement* (D-J / M / Y-A)

Place of Landing / *Lieu de l'octroi du droit d'établissement*

Serial No. of Landing Record / *NO de série de la fiche relative au droit d'établissement*

Permanent Address in Canada / *Adresse permanente au Canada*

VOID

Date of Issue / *Date de délivrance* (D-J / M / Y-A)

Valid Until / *Date d'expiration* (D-J / M / Y-A)

Office of Issue / *Bureau qui a délivré le permis*

Signature of Immigration Officer / *Signature de l'agent de l'immigration*

Signature of Permit Holder / *Signature du titulaire du permis*

If this permit expires a new permit may be applied for at any Canadian Visa Office abroad or any Immigration Centre in Canada. The validity of a returning resident permit shall not exceed twenty-four months: however, for any period exceeding twelve months the approval by a Senior Immigration Officer is required.

Si la durée de validité du présent permis expire, le titulaire peut demander un nouveau permis à tout bureau canadien des visas à l'étranger ou à tout Centre d'immigration Canada. La durée de validité d'un permis de retour pour résident permanent ne doit pas dépasser vingt-quatre mois. Cependant, pour toute période supérieure à douze mois, l'approbation d'un agent d'immigration supérieur est exigée.

Remarks / *Observations*

Error / *Erreur*

Utilities / *Libres*

Cost Recovery / *Recouvrement des frais*

IMM 1228 (2-88)

This form has been established by the Minister of Employment and Immigration
This document is the property of the Government of Canada

Formulaire établi par le Ministre de l'Emploi et de l'Immigration
Le présent document est la propriété du Gouvernement du Canada

Canada

HOLDER
TITULAIRE 1

03-90

Subsection 24(2) and section 25 of the Immigration Act state:

24. (2) Where a permanent resident is outside Canada for more than one hundred and eighty-three days in any one twelve month period, he shall be deemed to have abandoned Canada as his place of permanent residence unless he satisfies an immigration officer or an adjudicator, as the case may be, that he did not intend to abandon Canada as his place of permanent residence.

25. (1) Where a permanent resident intends to leave Canada for any period of time or is outside Canada, he may in prescribed manner make an application to an immigration officer for a returning resident permit.

(2) Possession by a person of a valid returning resident permit issued to him pursuant to the regulations is, in the absence of evidence to the contrary, proof that the person did not leave or remain outside Canada with the intention of abandoning Canada as his place of permanent residence.

Les Paragraphes 24(2) et 25 de la Loi sur l'Immigration stipulent :

24. (2) Le résident permanent qui se trouve à l'étranger plus de cent quatre-vingt-trois jours au cours d'une période de douze mois est réputé avoir renoncé à considérer le Canada comme son lieu de résidence permanente, sauf s'il établit le contraire à la satisfaction d'un agent d'immigration ou d'un arbitre selon le cas.

25. (1) Le résident permanent désireux de quitter le Canada temporairement ou qui se trouve à l'étranger, peut demander à un agent d'immigration, dans la forme prescrite, un permis de retour.

(2) Le fait pour une personne de posséder et d'être titulaire d'un permis valide de retour pour résident, délivré de la manière prescrite, établit, jusqu'à preuve du contraire, que son séjour à l'étranger ne constituait pas une renonciation à considérer le Canada comme son lieu de résidence permanente.

(Reference at IE 2.51) IE 2 APP. "D"

Employment and Immigration Canada / Emploi et Immigration Canada

REPORT UNDER SUBSECTION 20(1) OF THE IMMIGRATION ACT.
RAPPORT ÉTABLI AUX TERMES DU PARAGRAPHE 20(1) DE LA LOI SUR L'IMMIGRATION

HEADQUARTERS USE ONLY - *RÉSERVÉ À L'ADMINISTRATION CENTRALE*

5 0

K 014 540 035

TO: SENIOR IMMIGRATION OFFICER - *POUR: L'AGENT PRINCIPAL*

FROM: IMMIGRATION OFFICER - *ORIGINE: L'AGENT D'IMMIGRATION*

CLIENT ID - *ID DU CLIENT*

PURSUANT TO SUBSECTION 20 (1) OF THE IMMIGRATION ACT, I HAVE TO REPORT THAT ON
CONFORMÉMENT AU PARAGRAPHE 20 (1) DE LA LOI SUR L'IMMIGRATION, JE DOIS SIGNALER QUE LE

I EXAMINED
J'AI EXAMINÉ

SURNAME - *NOM DE FAMILLE*

GIVEN NAMES - *PRÉNOMS*

NAME FLAG - *INDICATEUR DU NOM*

DATE OF BIRTH - *DATE DE NAISSANCE*

1 9

COUNTRY OF BIRTH
PAYS DE NAISSANCE

COUNTRY OF CITIZENSHIP
CITOYEN DE

PLACE OF BIRTH - *LIEU DE NAISSANCE*

PURSUANT TO SUBSECTION 12 (1) OF THE IMMIGRATION ACT, A PERSON SEEKING TO COME INTO CANADA AS _____ IN MY OPINION IT WOULD BE CONTRARY TO THE IMMIGRATION ACT, AND/OR THE IMMIGRATION REGULATIONS, 1978, TO GRANT ADMISSION TO OR OTHERWISE LET HIM/HER COME INTO CANADA FOR THE FOLLOWING REASONS:
CONFORMÉMENT AU PARAGRAPHE 12 (1) DE LA LOI SUR L'IMMIGRATION, PERSONNE DÉSIREUSE D'ENTRER AU CANADA À TITRE DE _____ À MON AVIS, LE FAIT DE LUI ACCORDER L'ADMISSION OU LA PERMISSION D'ENTRER AU CANADA IRAIT À L'ENCONTRE DE LA LOI SUR L'IMMIGRATION ET (OU) DU RÈGLEMENT SUR L'IMMIGRATION DE 1978, POUR LA (LES) RAISON(S) SUIVANTE(S):

TYPE OF CASE - *GENRE DE CAS*

0 3

OFFICE FILE NO. - *Nº DE RÉFÉRENCE DU BUREAU*

DATE SIGNED - *SIGNÉ LE*
D-J M Y-A

OFFICE OF ISSUE - *BUREAU DE DÉLIVRANCE*

IMMIGRATION OFFICER - *AGENT D'IMMIGRATION*

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM 1093 EP - P (11-88) B

03-90

Canada

SENIOR IMMIGRATION OFFICER 1
AGENT PRINCIPAL

Employment and Immigration Canada Emploi et Immigration Canada

CONFISCATED OR VOLUNTARILY SURRENDERED CIICs OR CIIRs (IMM. 1000)
CIC OU FIIC (IMM 1000) CONFISQUÉE OU REMISE LIBREMENT

TO: Head,
POUR: Query Response Centre
Program Data Directorate
Canada Employment & Immigration Commission,

Chef,
Centre des demandes de renseignements
Direction des données du programme
Commission de l'emploi et de l'immigration du Canada

Ottawa, Ontario K1A 0J9
Canada

Name of office / *Nom du bureau*	File No. / *Nº de référence*
Date	

RE:
OBJET: _____
(Full name of person concerned — *Nom au complet de la personne concernée*)

Serial number of attached document (Where applicable)
Numéro de série du document ci-joint (s'il y a lieu)

PART I - CONFISCATED DOCUMENT — *PARTIE I - DOCUMENT CONFISQUÉ*

The attached document was seized in accordance with paragraph 110(2)(c) of the Immigration Act, from the person named above who was deemed by

☐ an adjudicator
☐ the Immigration Appeal Division

at an inquiry/hearing held at

_____
(place of inquiry/hearing)

on _____
(date)

to have abandoned Canada as his/her place of permanent residence.

En application de l'alinéa 110(2)c) de la Loi sur l'imigration, le document ci-joint a été retiré à la personne précitée, qui a été jugée par

☐ *un arbitre*
☐ *la section d'appel de l'immigration*

à une enquête/une audition tenue à

_____
(lieu de l'enquête/de l'audition)

le _____
(date)

comme ayant renoncé à considérer le Canada comme lieu de sa résidence permanente.

PART II - VOLUNTARILY SURRENDERED DOCUMENT — *PARTIE II - DOCUMENT REMIS LIBREMENT*

The attached document was voluntarily surrendered by the person named above at _____
(place)

on _____
(date)

Reasons for and method of surrender:

Le titulaire susmentionné a remis de son plein gré le document ci-joint

à _____
(place)

le _____
(date)

Raisons de la remise du document et méthode utilisée:

VOLUNTARY DECLARATION OF ABANDONMENT OF PERMANENT RESIDENT STATUS

I hereby declare that on or about _____

I will leave/I left Canada with the intention of abandoning Canada as my place of permanent residence.

RENONCIATION AU STATUT DE RÉSIDENT PERMANENT - DÉCLARATION VOLONTAIRE

Par la présente, je déclare que je quitterai/j'ai quitté définitivement le Canada le _____ ou vers cette date, car j'entends renoncer au statut de résident permanent du Canada.

_____
(Signature of person concerned)
(Signature de la personne concernée)

_____
(Witness — *Témoin*)

_____
Date

03-90

IMM 1342 AD-P (10-88) B

Canada

Employment and Immigration Canada Emploi et Immigration Canada

LOCAL VISITOR CONTROL - *FICHE DE CONTRÔLE LOCAL DES VISITEURS*

DOCUMENTATION OF GROUPS OF 15 OR MORE VISITORS EXEMPTED FROM SECTION 18 OF THE REGULATIONS

INSCRIPTION DES GROUPES D'AU MOINS 15 VISITEURS DISPENSES DE L'ARTICLE 18 DU REGLEMENT

NOTE:
- Although exempt from the provisions of Regulation 18 by virtue of paragraph 19(1)(d) of the Regulations, such groups of 15 or more artists are to be documented on IMM 60 VP-P for local control and bonding purposes.
- An additional copy should be made for each unit of a group expecting to leave Canada at different parts or different times.
- After immigration examination, the original of this form and an extra copy for each portion of a group leaving Canada separately, will be returned to the person in charge of the group for presentation to a Canadian Immigration Officer at the port of departure
- Persons intending to remain in Canada for more than three (3) months must report to a Canadian Immigration Officer.

REMARQUE:
- *Bien qu'ils soient dispensés des dispositions de l'article 18 du Règlement aux termes de l'alinéa 19(1)d) du Règlement, ces groupes d'au moins quinze artistes doivent être inscrits sur l'IMM 60 VP-P pour des fins de contrôle local et de cautionnement.*
- *Un exemplaire supplémentaire doit être rempli pour chaque member ou partie d'un groupe comptant quitter le Canada à divers points ou à différentes dates.*
- *Après l'examen de l'immigration, l'original du présent formulaire ainsi qu'un exemplaire supplémentaire pour chaque membre ou partie d'un groupe qui quitte le Canada séparément sera renvoyé au responsable du groupe qui devra les remettre à un agent d'Immigration Canada au point de sortie.*
- *Les persones qui comptent demeurer au Canada plus de trois mois doivent le signaler à un agent d'Immigration Canada.*

Group Name and Address
Nom et adresse des membres du groupe

Itinerary - (With Dates, if Space is Insufficient Attach a Complete Itinerary)
Itinéraire - (Indiquez les dates et, si l'espace est insuffisant, joignez un itinéraire complet)

In/Out *Entrée/ sortie*	Surname *Nom* / Given Names *Prenom(s)* — Alphabetical Order - *Par ordre alphabetique*	Birth *Naissance* D-J M Y-A	Citizen of *Citoyen de*	Home Address in Full *Adresse domiciliaire au complet*
	1			
	2			
	3			
	4			
	5			
	6			
	7			
	8.			
	9.			
	10.			
	11.			
	12.			
	13.			
	14.			
	15.			
	16.			
	17			
	18.			
	19.			
	20.			

IE 2 App. "F"

In/Out *Entree/ sortie*	Surname *Nom* / Given Names *Prenom(s)* — Alphabetical Order - *Par ordre alphabétique*	Birth *Naissance* D-J M Y-A	Citizen of *Citoyen de*	Home Address in Full *Adresse domiciliaire au complet*
	21.			
	22.			
	23.			
	24.			
	25.			
	26.			
	27.			
	28			
	29.			
	30.			
	31.			
	32.			
	33.			
	34.			
	35			
	36.			
	37.			
	38.			
	39.			
	40.			

(If More Space is Required Use Additional IMM 60 VP-P)
(Si vous avez besoin de plus d'espace, utilisez un autre IMM 60 VP-P)

Signature of Person in Charge *Signature du responsable*		Manager's Name and Permanent Home Address *Nom et adresse domiciliaire permanente du directeur*		
Date of Original Entry - *Date de l'entrée initiale*	D-J M Y-A	Name of Office *Nom du bureau*	Allowed Entry Until *Sejour autorise jusqu'au*	D-J M Y-A
Remarks - *Observations*				
Bond No. (IMM 514) *Cautionnement n° (IMM 514)*	Signature of Immigration Officier - Port of Entry *Signature de l'agent d'immigration - Point d'entrée* Date		Signature of Immigration Officer - Port of Departure *Signature de l'agent d'immigration - Point de sortie* Date	

(DO NOT SEND A COPY TO NHQ UNLESS IMM 514 IS ISSUED)
(À MOINS QU'UN IMM 514 NE SOIT DÉLIVRÉ, N'ENVOYER AUCUNE COPIE À L'A.C.)

03-90

IE 2 APP. "G"

Employment and Immigration Canada | Emploi et Immigration Canada

COLLECTIVE CERTIFICATE / CERTIFICAT DE GROUPE

■ SEE INSTRUCTIONS ON REVERSE ■ VOIR LES INSTRUCTIONS AU VERSO

NAME AND ADDRESS OF TOUR AGENCY · NOM ET ADRESSE DE L'AGENCE DE VOYAGE	NAME OF TOUR AGENT · NOM DE L'AGENT DE VOYAGE	TELEPHONE · TÉLÉPHONE

NAME AND ADDRESS OF TOUR LEADER · NOM ET ADRESSE DU CHEF DU GROUPE	SEX · SEXE ☐ M/H ☐ F	DATE OF BIRTH / DATE DE NAISSANCE	CITIZEN OF · CITOYEN DE	PASSPORT / Nº DU PASSEPORT

INTENDED MODE OF TRAVEL / MOYEN DE TRANSPORT PRÉVU	INTENDED DATE AND PORT OF ARRIVAL IN CANADA / DATE ET POINT D'ENTRÉE PRÉVUS AU CANADA	INTENDED DATE AND PORT OF DEPARTURE FROM CANADA / DATE ET POINT DE DÉPART PRÉVUS DU CANADA
☐ BUS / AUTO BUS ☐ AUTOMOBILE ☐ VAN / FOURGON NETTE	D · J | M | Y · A | PORT · POINT	D · J | M | Y · A | PORT · POINT

LIST GROUP MEMBERS ALPHABETICALLY (NO FEWER THAN FIVE) · ÉNUMÉREZ LES MEMBRES DU GROUPE DANS L'ORDRE ALPHABÉTIQUE (GROUPE COMPOSÉ D'AU MOINS CINQ PERSONNES)

LIST NO / Nº	SURNAME · NOM DE FAMILLE	GIVEN NAMES · PRÉNOMS	SEX / SEXE M-H	SEX / SEXE F	DATE OF BIRTH / DATE DE NAISSANCE	CITIZEN OF / CITOYEN DE	PASSPORT NO / Nº DU PASSEPORT
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							
13.							
14.							
15.							
16.							
17.							
18.							
19.							
20.							

OFFICIAL USE ONLY (DO NOT COMPLETE) – *RÉSERVÉ*

THIS DOCUMENT, WHEN VISAED, IS VALID FOR A SINGLE JOURNEY TO CANADA.
LE PRÉSENT DOCUMENT, DÛMENT VISÉ, EST VALIDE POUR UN SEUL VOYAGE AU CANADA.

CANADIAN OFFICIAL IN U.S.A. TO APPLY VISA (IMM. 1346) HERE

L'AGENT CANADIEN AUX ÉTATS-UNIS DOIT APPOSER LE VISA (IMM. 1346) DANS CETTE CASE

TO BE COMPLETED BY EXAMINING OFFICER AT CANADIAN PORT OF ENTRY
DOIT ÊTRE REMPLI PAR L'EXAMINATEUR AU POINT D'ENTRÉE AU CANADA.

THE FOLLOWING DID NOT APPEAR FOR EXAMINATION (CIRCLE CORRESPONDING LIST NO.) - *LES PERSONNES SUIVANTES NE SE SONT PAS PRÉSENTÉES LORS DE LA VÉRIFICATION (ENTOUREZ D'UN CERCLE LES NUMÉROS CORRESPONDANTS DE LA LISTE)*

☐ N/A S/O OR · OU

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20

BOND ON IMM. 514 - *DÉPÔT DE GAGE (IMM. 514)*

☐ N/A S/O OR · OU SERIAL NO. · *Nº DE SÉRIE*

TO BE COMPLETED AT CANADIAN PORT OF DEPARTURE
DOIT ÊTRE REMPLI AU POINT DE DÉPART DU CANADA.

THIS FORM WAS SURRENDERED ON / *LE PRÉSENT FORMULAIRE ÉTÉ REMIS LE* D · J M Y · A

THE FOLLOWING PERSONS DID NOT LEAVE CANADA WITH THE GROUP (CIRCLE CORRESPONDING LIST NO.) / *LES PERSONNES SUIVANTES N'ONT PAS QUITTÉ LE CANADA AVEC LE GROUPE (ENTOUREZ D'UN CERCLE LES NUMÉROS CORRESPONDANTS DE LA LISTE)*

☐ N/A S/O OR · OU

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20

ATTENTION VISA OFFICER

This procedure applies ONLY to groups of five or more who wish to enter Canada from the U.S.A. by bus, van or automobile and whose members ordinarily require visas to enter Canada as visitors;

Do NOT include the name of any group member who does not ordinarily need a visa to enter Canada as a visitor;

Have the tour leader or tour agency complete the top portion of this Certificate and enter, in alphabetical order, the names and other details of the group members;

N.B. Details of the "tour leader" do not have to be repeated in the alphabetical listing.

Draw a line through each space in the alphabetical listing NOT utilized and apply the office stamp over such spaces as an added precaution.

Apply a visitor visa IMM. 1346 in the space provided. Show the total number of persons visaed in the space provided, taking care to include the "tour leader" in this total;

If there is insufficient space on one Certificate, include the extra names and details on a separate Certificate and apply a separate visa to each such Certificate.

Present Copy 1 to the tour leader and retain Copy 2 as part of the visa register.

N.B. If more than one Certificate is utilized, all Copies 1 are to be stapled together for presentation at the Canadian port of entry.

ATTENTION TOUR LEADER/TOUR AGENCY

If the group is travelling in more than one vehicle, all such vehicles must enter and leave Canada at the same time through the same ports;

Persons named on the face of this Certificate who do not enter with the group will be required to have separate visas if and when they attempt to enter Canada;

This document must be surrendered to the Canadian Immigration officials at the port of departure;

Failure to comply with all requirements could jeopardize future use of Collective Certificates for the group concerned, or the agency involved, and could also result in estreatment of any bond taken at the port of entry at the discretion of the examining officer.

ATTENTION CANADIAN PORTS OF ENTRY/DEPARTURE

Arrival

Apply the port of entry stamp in the lower left corner of the Visa, partly on the Visa partly on the page.

Enter details of IMM.514 where applicable, and corresponding list numbers as indicated.

Departure

Enter the date the Certificate was surrendered on departure and include corresponding list numbers of persons who did not leave with the group;

Send the surrendered Copies 1 to the visa-issuing office for their information.

À L'ATTENTION DE L'AGENT DES VISAS

Cette façon de procéder s'applique UNIQUEMENT aux groupes de cinq personnes ou plus qui viennent des États-Unis et désirent entrer au Canada en autobus, en fourgonnette ou en automobile et dont les membres auraient habituellement besoin de visas pour entrer au Canada à titre de visiteurs.

N'inscrire le nom d'AUCUN membre du groupe qui n'a habituellement pas besoin de visa pour entrer au Canada à titre de visiteur.

Demander au chef du groupe ou à l'agence de voyage de remplir la partie supérieure du présent certificat et d'inscrire dans l'ordre alphabétique le nom des membres du groupe ainsi que les autres renseignements à leur sujet.

REMARQUE: Il n'est pas nécessaire d'inscrire de nouveau sur la liste les renseignements qui concernent le chef du groupe.

Tracer une ligne qui traversera chacun des espaces de la liste alphabétique LAISSÉ EN BLANC et apposer le timbre du bureau sur cette partie à titre de précaution supplémentaire.

Apposer un visa de visiteur (IMM. 1346) dans l'espace prévu à cette fin. Inscrire dans la case appropriée le nombre total de visas délivrés sans oublier d'inclure le chef du groupe.

Si un seul certificat n'est pas suffisant, inscrire le nom des autres personnes ainsi que les renseignements à leur sujet sur un certificat distinct et apposer un visa distinct sur chacun des certificats.

Remettre la feuille 1 au chef du groupe et conserver la feuille 2 dans le registre des visas.

REMARQUE: Si l'on délivre plus d'un certificat, on doit réunir toutes les feuilles 1 au moyen d'une agrafe afin de les présenter au point d'entrée au Canada.

À ATTENTION DU CHEF DU GROUPE/ DE L'AGENCE DE VOYAGE

Si le groupe utilise plus d'un véhicule pour voyager, tous les véhicules doivent entrer au Canada et en repartir en même temps et par les mêmes points. Les personnes dont le nom est inscrit au recto du présent certificat et qui n'entrent pas au Canada en même temps que le groupe devront obtenir des visas distincts s'ils désirent entrer au Canada.

Il faut remettre le présent document aux agents canadiens d'immigration au point de départ.

À défaut de satisfaire à toutes les exigences, le groupe ou l'agence concerné risque de se voir refuser ultérieurement la délivrance de certificats de groupe et de se voir confisquer, si l'examinateur le juge à propos, tout cautionnement déposé au point d'entrée.

À L'ATTENTION DES PERSONNES CONCERNÉES AUX POINTS D'ENTRÉE ET DE DÉPART

Arrivée

Apposer le timbre du point d'entrée dans le coin inférieur gauche du visa, en partie sur le visa et en partie sur la page.

Inscrire les renseignements qui figurent sur le formulaire IMM.514, s'il y a lieu, et les numéros correspondants de la liste.

Départ

Inscrire la date à laquelle le certificat a été remis au départ ainsi que les numéros de la liste qui correspondent aux personnes qui n'ont pas quitté le Canada en même temps que le groupe.

Renvoyer au bureau de délivrance, à titre d'information, les feuilles 1 du certificat remises lors du départ.

Employment and Immigration Canada Emploi et Immigration Canada

ALLOWED TO LEAVE CANADA
AUTORISATION DE QUITTER LE CANADA

Date: _____

To:
Pour: _____
(Name of person concerned - *Nom de la personne concernée*)

I am of the opinion that it would, or may be, contrary to the Immigration Act, or the Immigration Regulations, 1978 to grant admission to you, or otherwise let you come into Canada.

Therefore, pursuant to

☐ paragraph 20 (1)(b)

OR (check appropriate box)

☐ paragraph 23 (4)(b)

of the Immigration Act, I am allowing you to leave Canada forthwith. No inquiry has been caused in respect of this matter.

Je suis d'avis qu'il serait, ou qu'il peut être, contraire à la Loi sur l'immigration ou au règlement sur l'immigration de 1978 de vous accorder l'admission, ou de vous laisser, par ailleurs, entrer au Canada.

Par conséquent, conformément à

☐ *l'alinéa 20 (1) b)*

OU (cocher la case appropriée)

☐ *l'alinéa 23 (4) b)*

de la Loi sur l'immigration, je vous autorise à quitter le Canada immédiatement. Aucune enquête n'a été tenue à ce sujet.

_____
(Signature of Immigration Officer (A20 (1)(b) case)
Signature de l'agent d'immigration (pour le cas visé au L20 (1) b))

_____
(Signature of Senior Immigration Officer (A23 (4)(b) case)
Signature de l'agent principal (pour le cas visé au L23 (4) b))

APPENDIX "I-1"
(Reference at IE 2.46 2))

CREW IMM. F.R.

Answers to the questions listed below will be used for Customs control purposes and to compile statistical data.

To be completed by all travellers

Family Name or Last Name | First Name and Initials | Date of Birth (D M Y)

Address – Number, Street | Postal Code

City, Town | Province – State | COUNTRY

ARRIVING BY (indicate mode):
☐ Air ____ (Name of Airline) ____ (Flight No.) ☐ Marine ☐ Rail ☐ Bus

ARRIVING FROM (check one):
☐ U.S.A. Only (including Hawaii)
☐ Other Country Direct
☐ Other Country via U.S.A.

LIST LAST 3 COUNTRIES VISITED ON THIS TRIP (other than U.S.A.):

PRIMARY PURPOSE OF TRAVEL: ☐ Pleasure ☐ Business

– I am bringing into Canada:	YES	NO
• Goods which exceed the values/quantities of my personal exemption, including gifts **(refer to Information sheet)**;	☐	☐
• Goods such as firearms or other weapons; articles made or derived from endangered species;	☐	☐
• Business material, professional goods, commercial goods, goods for resale, samples, tools, equipment;	☐	☐
• Animals, birds, meats, any food containing meat, dairy products, eggs;	☐	☐
• Plants, cuttings, grapevines, vegetables, fruits, seeds, nuts, bulbs, roots, soil.	☐	☐
– I will be visiting a farm in Canada within the next 14 days.	☐	☐

To be completed only by residents of Canada

I left Canada on ____ (D M Y) and the total value of all the goods that I am bringing into Canada which were purchased, received or acquired in any manner while outside the country, and at Duty Free Stores is: $ ____ (Value in Cdn. funds)

– I have goods to follow at a later date valued at: $ ____ (Value in Cdn. funds)

– I qualify for and wish to claim a personal exemption of goods valued at:
☐ $20.00 Cdn. funds ☐ $100.00 Cdn. funds ☐ $300.00 Cdn. funds

____ (Signature of Traveller)

E 311 (2-90)

550

APR
AVR 1992

Revenue Canada Customs and Excise / Revenu Canada Douanes et Accise

☐ Resident / *Résident*

☐ Non-Resident / *Non-Résident*

☐ Other (Specify) / *Autres (Préciser)*

Length of Absence / *Durée de l'absence* _____

Length of Stay / *Durée du séjour* _____

	Value/*Montant*	No/*Non*
Goods Declared / *Marchandises déclarées*	$ _____	☐
Commercial Goods / *Marchandises commerciales*	$ _____	☐

	Yes/*Oui*	
Firearms/Weapons / *Armes à feu/Armes*	☐	☐
Gifts / *Cadeaux*	☐	☐
Duty Free Shop Purchases / *Achats d'une boutique hors-taxes*	☐	☐

Immigration / *Immigration* — TIT | E/E | L/S | O/A

Remarks/*Observations*

☐ MD / *OB*

☐ SEL / *SEL*

Inspector/*Inspecteur* _____ Lane/*Voie* _____

☐ Released / *Dédouané*

☐ Enforcement Action / *Exécution*

☐ Documentation / *Documentation*

☐ Returned to U.S.A. / *Retourné aux É.-U.*

E 67 (6/86)

Employment and Immigration Canada / Emploi et Immigration Canada

DIRECTION TO RETURN TO THE UNITED STATES
(UNDER SUBSECTION 20(2) OF THE IMMIGRATION ACT)

ORDONNANCE DE RETOURNER AUX ÉTATS-UNIS
(AUX TERMES DU PARAGRAPHE 20(2) DE LA LOI SUR L'IMMIGRATION)

Surname — *Nom de famille*	Given Names — *Prénom(s)*	File No. — *N° de référence*

Date of Birth *Date de naissance* D-J / M / Y-A	Country of Birth — *Pays de naissance*	Country of Citizenship — *Pays de citoyenneté*

Address in U.S.A. — *Adresse aux États-Unis*

You have this day been examined in accordance with subsection 12(1) of the Immigration Act, (hereinafter called the Act). I am of the opinion that it is contrary to this Act and/or Immigration Regulations, 1978 to grant you admission to Canada or otherwise let you come into Canada.

Because a Senior Immigration Officer is not available to receive my report, under subsection 20(2) of the Act I direct that you return to the United States until a Senior Immigration Officer is available.

Senior Immigration Officer will be available at

Vous avez aujourd'hui été interrogé(e) conformément au paragraphe 12(1) de la Loi sur l'Immigration (ci-après appelée la loi). J'estime que vous accorder l'admission ou la permission d'entrer au Canada contreviendrait à la Loi et(ou) au Règlement sur l'Immigration de 1978.

Comme aucun agent principal n'est disponible pour recevoir mon rapport, je vous ordonne, aux termes du paragraphe 20(2) de la Loi, de retourner aux États-Unis en attendant qu'un agent principal soit disponible.

Un agent principal sera disponible à

Location — *Endroit*	Date On *Le*	Time — *Heure* AT *À*

at which time I will submit my report. If you desire to continue with your request for admission to Canada please return to

Je présenterai alors mon rapport. Si vous désirez toujours solliciter l'admission au Canada, veuillez vous présenter à

Location — *Endroit*

on the date and time mentioned above.

à la date et à l'heure indiquées ci-dessus.

Signature of Immigration Officer — *Signature de l'agent d'immigration*	Date	Port of Entry — *Point d'entrée*

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM. 1237 EP-P (8-88) B

Canada

03-90

Employment and Immigration Canada Emploi et Immigration Canada

IE 2 APP. "K"
Ref. 2.72 3)a)

DIRECTION TO RETURN TO THE UNITED STATES

(Under subsection 23(5) OF THE IMMIGRATION ACT.)

ORDONNANCE DE RETOURNER AUX ÉTATS-UNIS

(AUX TERMES DU PARAGRAPHE 23(5) DE LA LOI SUR L'IMMIGRATION)

Surname — *Nom de famille*	Given Names — *Prénom(s)*	File No. — *N° de référence*

Date of Birth *Date de naissance* ► D-J / M / Y-A	Country of Birth — *Pays de naissance*	Country of Citizenship — *Pays de citoyenneté*

Permanent or Temporary Address in the United States — *Adresse permanente ou temporaire aux États-Unis*

I have received a report under subsection 20(1) of the Immigration Act, (hereinafter called the Act) from an Immigration Officer. A copy of the report is attached.

J'ai reçu d'un agent d'immigration un rapport, dont vous trouverez un double ci-joint, établi en vertu du paragraphe 20(1) de la Loi sur l'immigration (ci-après appelée la Loi).

Being satisfied that the report is accurate, pursuant to paragraph 23(4)(a) of the Act, I hereby cause an inquiry to be held concerning you as soon as reasonably practicable.

Comme le rapport est exact, je fais par les présentes procéder à une enquête à votre sujet, conformément à l'alinéa 23(4) a) de la Loi, dès que les circonstances le permettent.

Because an Adjudicator is not available to preside at the Inquiry, pursuant to subsection 23(5) of the Act, I direct that you return to the United States until an Adjudicator is available.

Comme aucun arbitre n'est disponible pour présider l'enquête, conformément au paragraphe 23(5) de la Loi, je vous ordonne de retourner aux Etats-Unis en attendant qu'il soit possible d'en trouver un disponible.

An Adjudicator will be available at

Un arbitre sera disponible à

Location — *Endroit*	On *Le* Date	At *À* Time — *Heure*

at which time the Inquiry will commence. If you desire to continue with your request for admission to Canada please return to

date et heure où l'enquête débutera. Si vous désirez toujours solliciter l'admission au Canada, veuillez vous présenter de nouveau à

Location — *Endroit*

on the date and time mentioned above. Attached is a Notice (689) which outlines your right to counsel of your choice at the Inquiry or alternatively your obligation to accept a designated barrister or solicitor in certain circumstances.

à la date et à l'heure indiquées ci-dessus. Vous trouverez ci-joint un avis (IMM 689) qui vous explique votre droit d'être représenté(e) à l'enquête par un conseil de votre choix ou, autrement, votre obligation d'accepter, dans certaines circonstances, un avocat désigné.

Senior Immigration Officer — *Agent principal*	Date	Port of Entry — *Point d'entrée*

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM 1238 EP-P (11-88) B

Canada

03-90

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CHAPTER IE 3

SECURITY DEPOSITS (BONDS)

AUTHORITY

ACT: 18, 23, 104, 105

INSTRUMENTS: I-12, I-25

FINANCIAL ADMINISTRATION ACT
REGULATIONS REGARDING PAYMENT OF MONEY RECEIVED

3.01 GENERAL INTENT

1) It is the clear intention of Parliament that the bonding provisions in the Immigration Act, 1976 should be utilized in appropriate instances as a control measure at ports of entry. Thus, there may be times when an examining officer feels that a visitor, or all the members of a group of visitors, will not comply with any terms or conditions which may be imposed pursuant to R23(e), including the condition that the person(s) leave Canada on or before a specific date.

2) These doubts can often be alleviated by a performance bond or other security deposit specifying an amount adequate to guarantee such compliance. In such cases, A18 provides the legal authority for a senior immigration officer to take a "reasonable" (see 4) below) sum of money or other security believed to be necessary to ensure that a visitor will comply with terms or conditions imposed upon entry by the examining officer.

3) Such deposits can only be taken at a port of entry at the time of a person's arrival in Canada.

4) "Reasonable", in this context, should be interpreted as an amount large enough to act as an effective guarantee of compliance while at the same time appropriate to the resources of the person making the deposit.

5) Unfamiliarity with the law, and problems with the initial forms, appear to have limited the use made of A18. It is the responsibility of managers of ports of entry to ensure that officers under their direction are made fully aware of the possibilities under the Immigration Act, 1976 for the use of security deposits in appropriate cases. In particular, it should be understood that a performance bond in an appropriate amount, signed by a Canadian citizen or permanent resident, will normally serve as a perfectly adequate guarantee and will eliminate the need to deprive the person seeking admission of funds needed for the visit.

3.02 - 3.03 SPARES

GUIDELINES

3.04 TYPES OF SECURITY

1) The Immigration Act, 1976 provides for the taking of security deposits pursuant to A18, A23 and A104 at Canadian ports of entry and inland offices (this authority cannot be exercised overseas in the form of advance conditions - see 3.26). The deposits may take the form of a performance bond or the deposit of cash or other valuables.

2) A performance bond constitutes a legally enforceable promise in writing, on the part of a person to pay another person a set sum of money unless certain conditions are fulfilled. In the immigration context that will, for example, describe the situation where an individual guarantees, by signing a bond form, that a visitor will leave Canada on or before a certain date. The visitor relieves the obligation by departing as promised.

3) Other than performance bonds, it is the Commission's policy that the only acceptable form of deposit will be a specified sum of cash, since the value of other objects can be questionable and realization may be complicated.

3.05 DISCRETION BY EXAMINING OFFICER IN RECOMMENDING SECURITY DEPOSITS

1) A performance bond signed by a third party is a "security" within the meaning of A18. Therefore, in cases where the examining officer has some doubt about granting admission, the taking of a performance bond should always be considered where the person has friends or relatives in Canada (who are Canadian citizens or permanent residents) prepared to vouch for him. A performance bond is acceptable when the person posting it satisfies the senior immigration officer that he is employed or otherwise has the means to pay should it be necessary to enforce the bond.

2) Similarly, when there is no friend or relative in Canada, and the examining officer has some doubts that a visitor, or all the members of a group of visitors, will leave Canada in the required time, but these doubts might be displaced with a security deposit of an amount adequate to guarantee compliance with the condition to leave, admission could be granted, terms and conditions imposed, and a security deposit taken by a senior immigration officer. However, under no circumstances should a security deposit be seen as a means for any person to buy his way into Canada. In such cases, where inadmissibility is evident, a security deposit should not be taken in lieu of a report being made pursuant to A20(1).

3) See Appendix "A" for examples of situations in which an examining officer might feel the use of A18 would be appropriate.

3.06 VALUE OF PERFORMANCE BOND OR DEPOSIT

1) The face value of performance bonds should not be prohibitive, although the amount should be sufficient to encourage compliance with the terms and conditions imposed. In situations where the face value of the performance bond is excessive and court action must be taken to obtain the funds, this Commission could be called upon to prove what damage it has actually suffered.

2) The Act calls for a reasonable sum or other security to be given (see 3.01 4)). This would mean that, where the visitor is a person of modest income, it would not normally be the practice to require a security deposit of more than several hundred dollars. Yet, the deposit must be at a level to be an adequate guarantee of compliance. In certain instances, a third party might be required to deposit several thousand dollars, but again with the stipulation that it be a reasonable sum and will serve as an adequate guarantee.

3.07 EFFECTS ON INLAND PROCEDURES OF ORIGINAL BOND WORDING

1) a) i) A Bond is given under section 18 "as a guarantee that such visitor ... will comply with any terms or conditions that may be imposed under this Act" (subs. 18(1)). In the opinion of our legal counsel, such bonds are given to guarantee respect of terms or conditions imposed pursuant to e.g., subs. 14(3), 19(3), 23(2) and 17. The terms and conditions are not terms and conditions of the bond per se, but terms and conditions which the visitor must respect, failing which the guarantor will become liable on the guarantee. In order to give authority for continuing a bond in force, and applicable to any terms and conditions added or varied in accordance with A17, the phrase "any other terms and conditions as may be imposed under the Immigration Act, in writing on any visitor record or authorization issued to (name of person concerned)" must be included on the bond form at the time the original bond is taken. This reference in the bond ensures terms or conditions imposed subsequent to entry are also guaranteed, so as to accomplish the purpose for which, by law, the guarantee is given.

ii) The terms and conditions imposed on entry should be referred to in the bond. The best way to do this is to repeat them. If such terms or conditions are varied, cancelled or new ones imposed, then the variation or new ones automatically or implicitly take precedence. The number of an accompanying entry document is NOT to be indicated on the bond. Thus, if the circumstances are such that a deposit must be kept in force, it is not necessary to amend the bond where the bond contains a "condition" with respect to future terms and conditions which may be imposed pursuant to the Act.

b) A bond cannot be forfeited on the basis of a repealed original condition. When one of the conditions of a bond is that a person leave Canada by a specified date, extending the date implies the repeal of the original condition. Consequently, action cannot be taken to forfeit a cash deposit or realize on a performance bond on the basis of a repealed original condition. A bond can be forfeited if the person does not comply with a new condition, for example, a new, extended departure date.

2) A person who is granted entry under bond should be granted a time period reasonably consistent with the length of time originally requested. There should then be no need for the person to request an extension. However, if a person under bond has complied with the terms and conditions imposed at entry, an inland officer may wish to grant an extension of stay if extenuating circumstances exist, and there is every indication that the person will continue to comply with any terms or conditions imposed.

3) When a person is released from detention under bond to appear for the opening of the inquiry, the bond becomes void when the inquiry commences. If the inquiry is adjourned, a new bond would have to be taken. This could necessitate the appearance of the co-signor at each adjournment. However, with the appropriate wording of the conditions of the initial bond, it is possible to have the original bond valid until the adjudicator renders a decision, provided of course, that the adjudicator does not wish to change the reporting condition or amount of the bond. A legal opinion suggests that, if the following condition is included in the initial bond, it would then not be necessary to take a new bond until the adjudicator has given a decision:

> "I promise to appear at the time and place required for the purpose of an inquiry under the Immigration Act, and to appear thereafter as required by the adjudicator in order to be dealt with according to the Immigration Act.

4) In both the Kaur and Grewal decisions the Courts found that an enquiry was not terminated by a person's brief departure from Canada. If a bond is given in the context of an inquiry and the adjudicator maintains jurisdiction, then it can be argued that the bond continues to operate. If the adjudicator declines jurisdiction, then the effect is that the conditions of the bond have been met as soon as the person left Canada even if that person was not granted lawful permission to be in another country. Upon return to a Canadian port of entry, the person should be examined in accordance with the request made at that time.

3.08 SECURITY DEPOSITS - REFUNDS/FORFEITURES/ENFORCING (To be read in conjunction with 3.36 and 3.38)

1) The procedures and practices applied by the courts, in dealing with criminal bail matters are relevant to our own policy with respect to the taking and forfeiting of security deposits. When an accused enters into a recognizance of bail, he acknowledges an indebtedness to the Crown if there is a failure to comply with any of the conditions set by the court for his release. The accused may be required to find a person to undertake to secure his compliance with the conditions. A court judgement regarding criminal bail forfeiture and the responsibility of sureties stated:

> "There seems to be a general impression that sureties are under no obligation to take any care to ensure the appearance of their principal on the date and at the time he is required to appear, and that after he has failed to do so efforts to find him will relieve them against forfeiture of the recognizance.
>
> The law is clear that the surety's prime obligation is to ensure the appearance of the accused at the proper time and place, and it must...be understood that...efforts to find and bring back the accused after he has defaulted will (not) justify relief against forfeiture of the recognizance."

2) The signatory of a security deposit has entered into a serious obligation to ensure that the person concerned complies with any terms or conditions imposed. The Act entitles us to enforce the full amount of the forfeiture when the conditions of a security deposit are breached despite the existence of mitigating circumstances. Therefore, a person signing a security deposit must be impressed with the importance of his undertaking, his responsibilities and the consequences should any of the terms and conditions imposed not be met.

3) Where a person has complied with the terms and conditions imposed, any security deposit taken under A18, A23 or A103 must be returned as soon as possible. Although A23 and A104 do not specifically mention the power to refund, it is the opinion of our legal adviser that there is no need for the Immigration Act to contain this specific authority. Section 14 of the Financial Administration Act and the Regulations Re. Payment of Money Received provide the proper authority for the manner in which money provided as security is returned to the responsible parties. The return of money that has been placed in the Consolidated Revenue Fund is carried out in accordance with this authority.

4) There will be occasions where there has definitely been a breach of the conditions of a deposit. However, A18 and A104 both state that where a person fails to comply with any of the terms and conditions that were imposed, a security deposit may be declared forfeited or a performance bond may be enforced. This discretionary authority, which has been delegated in Instruments I-12 and I-25 (see IL 3), was included in the Act to allow for those situations where, in the judgment of the authorized officer:

   a) the conditions of the security deposit were violated through no fault of the individual (e.g. person failed to report due to illness);

   b) extenuating humanitarian considerations exist;

   c) the Commission has been responsible for some delay contributing to the person's violation of the conditions (e.g. failure to process an application for extension before a date specified in a bond).

5) Despite the fact that a person has not complied with the terms and conditions of his last security deposit, action should not be taken to realize on a performance bond or to forfeit a cash deposit when:

   a) a subsequent decision is made to deal with a person favourably (e.g. person was to leave by a specified date but has been processed and landed);

   b) a person is required to report or leave on a certain date but is incarcerated and unable to comply;

c) a person leaves Canada within a few days of the date stipulated in his security deposit. Where the person's departure has not been confirmed but indications are that he has left, no action should be taken to forfeit the deposit until he has been allowed a reasonable period of time to prove his departure;

* d) the Immigration Appeals Division of the IRB allows an appeal or quashes a departure order.

6) When a refugee claimant has breached the terms and conditions of his security deposit, the cash bond should be declared forfeited or the performance bond enforced. The fact that the person is claiming refugee status should not be sufficient grounds for ignoring the fact that the person failed to meet the conditions of his bond. If the person is subsequently found to be a refugee, action will then be initiated to return the funds forfeited or recovered.

7) Persons released on bond pending Inquiry or the continuation of an Inquiry will sometimes wish to leave Canada rather than proceed. A deposit requiring the person to appear for inquiry should not be an impediment to that person voluntarily leaving Canada except where the violation is serious enough to warrant deportation. Even in that case, no action should be taken to forfeit a cash deposit or realize on a performance bond unless the authorized officer feels that either this Commission or the public interest has been harmed by the person leaving Canada. Where the person could be issued an exclusion order or a departure notice and asks to leave rather than proceed to inquiry, the policy of the Commission is to refund the cash deposit or not take action on the performance bond in question. However, it must be borne in mind that a person has a right to inquiry and must not be counselled to leave Canada before his hearing.

8) It may happen that a guarantor of a security deposit will appear at an immigration office seeking to withdraw from his undertaking. Although there is nothing in the Act to prohibit the release of the guarantor from his undertaking, he cannot withdraw unilaterally. He must be released from it by the party with whom the deposit has been made, i.e., this Commission. A guarantor should not be allowed to withdraw unless the person concerned can find another guarantor who is suitable to the Commission.

9) If a senior immigration officer releases a guarantor from his undertaking, he must immediately take another deposit from the new guarantor and authorize the refund of the money deposited by the original guarantor.

3.09 RELEASE FROM DETENTION (see also IE 10.50)

1) The provisions of the Act dealing with release from detention and release on
* terms and conditions (see IE 10.50) are intended to reflect the policy underlying the Bail Reform Act that the personal freedom of individuals should not be interfered with unless such action is necessary to protect the larger interest of

society as a whole. The objectives of that Act were to avoid unnecessary arrest and detention; to ensure that persons were not held in custody unnecessarily and to ensure an early trial for detainees. In keeping with the content and the spirit of the Bail Reform Act, the Immigration Act provides procedures to safeguard the rights of the individual and to balance the increased powers of arrest and to detain conferred upon immigration officers by A103 and 103.1.

2) The Immigration Act provides that a person may not be arrested or detained, or if detained must be released, unless they present a danger to the public or would not otherwise appear for examination, inquiry or removal from Canada. In determining whether a person falls into either of these categories, the officer concerned must have reasonable grounds on which to base a decision (see 10.40). The presumption should always be that the person is likely to appear rather than the other way around. It is impossible to give guidelines for release which will take every situation into consideration. However, the factors contained in IE 10.40 should prove useful to an officer in reaching a decision. Officers are cautioned that the examples given therein should not be interpreted as the sole factors which should be taken into consideration.

3) Senior immigration officers should vary the amount of security deposits according to the degree of risk perceived that the individual will comply with the conditions of release. They should keep in mind that the amount of a security deposit should not be so high as to prohibit release.

3.10 ALTERATION OF CASH DEPOSIT

person may be released on a cash deposit, meet the conditions of that bond and hen circumstances warrant the taking of another bond. If a reduction in the amount of the cash deposit is in order, another cash bond for the smaller amount must be taken (see 3.20 3)).

3.11 - 3.19 SPARES

PROCEDURES

3.20 TYPES OF SECURITY

* 1) Performance Bonds (IMM 1230 (see App. C), IMM 1259 (see App. D), IMM 1262 (see App. E)

a) "Performance Bonds" (IMM 1230, 1259) can be used:

i) to release a detained person;

ii) by adjudicators pursuant to A104(3)(c); or

iii) as a guarantee pursuant to A18.

b) Form IMM 1262 is used as an acknowledgement of terms and conditions.

c) In completing the above forms, there may be instances where a person is released from detention and conditions imposed. In such cases, the word "OR" on the applicable form is to be deleted and replaced by "AND". All such changes must be initialled by the officer concerned.

2) Cash Deposits (IMM 514)

a) i) In accepting cash as a security deposit, form IMM 514 must be used, and it must be fully completed. These forms are often scrutinized by the Courts and the omission of a date or some other information could cause problems for the Commission.

ii) The exact name of the depositor must be entered in the appropriate section of the cash deposit form (IMM 514). In actioning refund requests, our Financial Services Division has encountered some difficulty when the depositor has been identified as "Mrs. John Doe" rather than "Jane Doe". The problem stems from the fact that refund cheques are not issued with a person's title (e.g. Mr. or Mrs.) before their name. Thus, in the example given above, the cheque would be issued to John Doe rather than to the depositor.

b) The responsible officer will prepare a Requisition for a Bank Settlement (DSS form 1785), buy a Bank Settlement with the deposit received and prepare a Revenue Journal. He will forward the following to NHQ:

i) the Bank Settlement;

ii) copies 2, 3 and 4 of the Requisition for a Bank Settlement (DSS 1785);

iii) copies 1 and 4 of the Revenue Journal (E&I 2203); and

iv) copy 2 of the IMM 514.

c) When a bond is taken from a large theatrical group which is documented on IMM 60 (see IE 2.80), a copy of the IMM 60 will accompany Copy 2 of the IMM 514 to Ottawa.

3) Alteration of Cash Deposit

Should circumstances warrant the taking of a second bond, a smaller cash bond may be taken by requesting a partial refund of the original deposit. When a cash bond is reduced, an IMM 514 will be completed as usual. However, instead of acknowledging receipt of the cash, the line beginning "previous cash deposit..." is to be completed. Box "3" of a Requisition for Refund/ Forfeiture (IMM 709) will be completed with any clarifying comments written in the Remarks section, and both forms forwarded to Revenue Accounting, NHQ.

3.21 BONDSPERSON INFORMATION

An officer may ask a person wishing to sign a security deposit to complete a "Solemn Declaration of Solvency by Bondsperson" (IMM 1416). The form obtains background information on the person's assets and liabilities to assist in the determination of whether or not a person is a suitable bondsperson. It ensures that persons are fully aware of their obligations and provides information for follow-up in the event a person does not fulfill his financial obligation when the terms of a bond are not met.

3.22 - 3.24 SPARES

3.25 ADVICE TO DEPOSITOR IN CASH CASES

When a condition of a cash deposit is that a person leave Canada by a specific date, the person concerned should be informed that it would be advantageous to report to the immigration office at the port of departure since, once departure is confirmed, the deposit can be returned to the address provided on the IMM 514. The person should also be advised that failure to report could result in considerable delay in refund action.

3.26 ADVICE FROM POST ON POSSIBLE BOND REQUIREMENT

1) Posts abroad do not have the authority to impose a security deposit condition pursuant to A18 before issuing a visitor visa. Such deposits can only be demanded and taken by a senior immigration officer in Canada (see 3.04).

2) When a visa officer has issued a visitor visa, but is aware of special circumstances which were not alone sufficient to warrant refusal of the visa, the visa officer will alert the port of entry by telex (referring to 3.26) prior to the person's scheduled arrival, giving details of the case.

3.27 VISITORS WHO CANNOT COMPLY WITH REQUESTS FOR SECURITY DEPOSITS

1) A person may be reported A19(2)(d) when he cannot, or will not, fulfill or comply with any order or direction lawfully made under the Act. A18(1) empowers a senior immigration officer to require a deposit as a guarantee that a visitor will comply with terms and conditions imposed on entry. Therefore, refusal or inability to pay a security deposit would be a breach of A19(2)(d). In such cases, the examining officer can prepare a report on the grounds of A19(2)(d) - A18(1).

2) If the person is reported A19(2)(d) - A18(1) and then makes the required deposit before the inquiry, the notice is to be withdrawn and the person granted entry by a senior immigration officer. When a person offers to pay during the inquiry, the adjudicator will adjourn the inquiry to permit payment. A senior immigration officer can then grant entry and the inquiry will be terminated.

3.28 PROCEDURES AT INLAND OFFICES

1) Extensions - Bond No Longer Required

When an inland officer feels that a bond is no longer necessary and that an extension should be granted, he should first obtain the concurrence of a senior immigration officer. Once SIO concurrence has been obtained and the extension granted, the port of entry concerned must be advised (quoting 3.28 1)) and indicating SIO concurrence in order that the port of entry can take action to have the cash deposit refunded, or the performance bond cancelled.

2) New Terms and Conditions

a) A case may occur where, for one reason or another, an inland officer still has doubts about whether a visitor (tourist) will accept unauthorized employment, or attend school without proper authorization, but feels that the exceptional circumstances warrant extension. In such cases, provided the original wording on the bond is correct (see 3.07 1)) the officer will keep the original bond in force and reflect the new terms and conditions on the visitor record or authorization. The officer must then notify the port of entry of the action taken. In the case of a cash deposit, Financial Services should be advised of the change and sent a photocopy of the original deposit.

b) A legal opinion indicates that local offices should obtain the concurrence of the guarantor before modifying the conditions of the bond. Depending upon the length of space that remains unused in the terms and conditions section of the bond, the amended conditions could appear in the remaining space together with the date of the amendments, the signature of the visitor, the concurrence of the bonded person (i.e., "concurred with on (date) by (signature of bonded person)") and the signature of the officer making amendments to the conditions. If the space is limited, then the document should be annotated "the above conditions having been varied on (date) as per the attached document". The attached document would also contain the date of amendments, the visitor's signature, concurrence of bonded person and the signature of the immigration officer.

3) Persons Under Bond Who Are Being Landed

On occasion, a security deposit may be taken at a port of entry on a visitor who is later processed and landed at an inland office. In this situation, the inland office should notify the port of entry involved (quoting 3.28 3)) that the person is being processed towards landing (serial number of IMM 514 will be provided where applicable). The port of entry should withhold any action until the case is finalized. A cash deposit is to be refunded immediately landing takes place (see 3.38).

3.29 - 3.35 SPARES

3.36 FORFEITURE OF CASH DEPOSITS/ENFORCEMENT OF PERFORMANCE BONDS

1) Failure to Comply With Terms and Conditions

a) Should the subject fail to comply with any terms and conditions imposed, a senior immigration officer will:

i) recommend to the Manager of the CIC that a cash deposit be forfeited or action taken to realize on a performance bond if the person has taken positive and deliberate steps to disregard the conditions imposed;

ii) review the circumstances of the case and request a refund of the deposit if he feels there were any extenuating circumstances contributing to the person's non-compliance.

b) On receipt of such a forfeiture, a Manager will:

i) review the circumstances of the case;

ii) complete a Requisition for Refund/Forfeiture and forward it to Revenue Accounting or initiate the necessary action to realize on a performance bond;

iii) inform the senior immigration officer of his decision in the case;

iv) notify the person concerned in writing of the reasons why action is being taken to forfeit a cash deposit or realize on a performance bond.

c) Cases have occurred where, after a Manager of a CIC has requested forfeiture of a cash deposit, information has come to light which has caused a senior immigration officer to ask that this same deposit be refunded. This situation should not arise if the circumstances of each case are thoroughly reviewed before a Requisition for Forfeiture is made. However, should it become necessary to cancel a Requisition for Forfeiture and request a refund of a deposit, such action should be taken by a Manager, not by a senior immigration officer.

* 2) Performance or Cash Bonds Signed By A Third Party (Bondsperson)

a) Since the decision to forfeit a cash bond or realize on a performance bond is discretionary, a bondsperson must be given an opportunity to make written representations with respect to a potential forfeiture in order to comply with the requirements of procedural fairness.

b) When a person is informed that he must appear either for inquiry or for removal as required by the terms and conditions of a security deposit, a copy of this notification must be provided to any third party bondsperson. The notification should be mailed to the address of the

bondsperson as indicated in the bond or to an address provided to us by written notice from the bondsperson. IT IS IMPORTANT THAT ALL SUBSEQUENT CORRESPONDENCE RELATING TO POSSIBLE FORFEITURE OF BONDS BE ANSWERED. Failure to respond to any letters disputing liability can lead to difficulties for the Commission in any subsequent legal proceedings.

c) If a bondsperson has received written notice that the person concerned is to appear and does not then produce the person at the appointed time, the bondsperson could appear or make written representations to explain why the person is not there as required. He may also seek additional time for further investigation. If, after any extention of time for investigation that may be granted to the bondsperson, he still cannot provide a satisfactory explanation as to the person's whereabouts and he has been allowed to make representations on the discretionary aspect of forfeiture, action can be initiated to forfeit a cash deposit or enforce a performance bond.

d) When the terms and conditions of a A18 bond have not been met, the Commission will likely become aware of the breach only after its occurrence. In these circumstances, the duty of procedural fairness should be met by the third party bondsperson being informed in writing of the alleged breach, the possibility of either forfeiture of a cash deposit or enforcement of a performance bond and being allowed to make written representations regarding the discretionary decision with respect to forfeiture.

e) Our legal counsel does not feel it is necessary to allow a bondsperson to make oral representations with respect to the forfeiture of security deposits or the enforcement of a performance bond; however, there may be cases where the facts dictate such an opportunity.

f) Our legal counsel is of the opinion that the Commission can settle for an amount less than originally stipulated by an Adjudicator for a performance bond. The Act provides that a performance bond <u>may</u> be enforced, i.e., a performance bond need not be enforced. While the Act does not explicitly state that a performance bond can be enforced in part only, it could be argued that the legislature intended an implicit power to enforce such part of the bond as appeared appropriate. CIC managers will determine the appropriateness of this procedure as the facts of the case dictate.

g) Should the guarantor refuse, or be unable to honour the commitment with respect to a performance bond, <u>or such reduced commitment as may be negotiated</u>, the matter is to be referred to the Justice Department regional office for realization.

3) <u>Cash Bonds on IMM 514</u>

a) The authority to direct forfeiture of a cash deposit has been delegated to Managers of CICs (see Instruments I-12 and I-25 at Chapter IL 3).

b) When it has been determined that a visitor has failed to comply with the conditions established in the IMM 514, an authorized officer will immediately complete form IMM 709 and send it to Revenue Accounting, NHQ (at the address shown on the form) for forfeiture action.

- 3.37 SPARE

3.38 REFUND OF CASH BONDS ON IMM 514

When it is determined that a visitor has complied with the conditions established by the IMM 514, an authorized officer is to complete form IMM 709 immediately and forward it to Revenue Accounting, NHQ (at the address shown on the form) for refund action.

3.39 ON...SPARES

EXAMPLES OF SITUATIONS WHERE A18 MIGHT APPLY

(Reference at 3.05 3))

1) a) Where an individual indicates his intention to enter as a visitor and the examining officer has some concern that the person actually intends to remain permanently. The decision to report the individual under A19(1)(h) would depend upon the degree of doubt in the mind of the officer. If the officer believes that imposing a term limiting the stay in Canada would be respected by the person, such action would be sufficient. If, on the other hand, there is some indication that the person would not abide by the term limiting stay, the officer could consider requesting the use of an A18 security bond.

b) It must be emphasized in this context that, because a person is not entirely sure how long he wishes to remain in Canada, this does not necessarily signify that the person is a non-genuine visitor within the meaning of A19(1)(h). Similarly, an indication that a person might desire to extend his stay for as long as permitted will not bring the person within A19(1)(h), unless there is evidence that he intends to remain permanently. In many such instances, the invididual will be prepared to comply with the requirements of the law if these are made clear (emphasized, where necessary, by the taking of a deposit or bond).

2) Where a person presents himself at a port of entry as a tourist and the examining officer believes the person's true intention is to work or study in Canada. The officer could impose appropriate conditions set out in R23 and ask a senior immigration officer to request a bond or other security deposit in order to guarantee compliance with the terms and conditions.

3) When a person who was originally seeking entry to work or study is informed at the examination that such conduct is not allowed and the person agrees to come in as a tourist. An officer may believe that a bond or other security deposit would be sufficient to guarantee compliance with conditions prohibiting study or work.

4) Where an officer considers that a person, if reported for inquiry based on A19(1)(h), will be released under A23 and that the inquiry could be delayed for a period longer than or equal to, the period of stay originally requested. There continue to be cases at ports of entry where, for one reason or another, inquiries are delayed for extended periods of time. Where an officer is considering reporting a person under A19(1)(h) and considers it likely that the person will be released for a period approximating, or longer than, the period of stay originally requested, the officer should consider the possibility of allowing the person entry for the limited time period requested under an A18 security deposit. This procedure may also be appropriate when the evidence is not compelling and the report would be based on A19(1)(b) or A19(1)(a)(ii). It should NOT be used for cases involving A19(1)(a)(i), A19(1)(d), A19(1)(e), A19(1)(f) or A19(1)(g).

Employment and Immigration Canada Emploi et Immigration Canada

IE 3
APP.B B 71009

CASH DEPOSIT *DÉPÔT EN ESPÈCES*

TO BE DEPOSITED BY - *À DÉPOSER PAR*

ADDRESS - *ADRESSE*

THE SUM OF - *LA SOMME DE* CANADIAN DOLLARS *EN DOLLARS CANADIENS* $ ____ 100

AS A SECURITY DEPOSIT UNDER THE IMMIGRATION ACT, IN RESPECT OF THE *COMME DÉPÔT DE GAGE AUX TERMES DE LA LOI SUR L'IMMIGRATION À L'ÉGARD DE*

1. ☐ RELEASE UNDER SECTION *LA LIBÉRATION, EN VERTU DE L'ARTICLE* ____ OF - *DE* →
2. ☐ ENTRY UNDER SECTION *L'AUTORISATION DE SÉJOUR ACCORDÉE EN VERTU DE L'ARTICLE* ____ OF - *À* →
3. ☐ IMPOSITION OF CONDITIONS UNDER SECTION *L'IMPOSITION DE CONDITIONS, EN VERTU DE L'ARTICLE.* ____ UPON *À* →

NAME OF PERSON CONCERNED *NOM DE LA PERSONNE CONCERNÉE*

UPON THE CONDITIONS HEREINAFTER INDICATED - *SELON CONDITIONS ÉNONCÉES CI-APRÈS*

VOID

I understand and agree that in the case of default or breach of any of the above conditions the moneys deposited herewith are liable to be forfeited to Her Majesty the Queen in right of Canada.

Je reconnais et conviens que, dans le cas de manquement ou d'infraction aux conditions précitées, les montants déposés avec les présentes peuvent être confisqués par Sa Majesté la Reine du chef du Canada.

DATED AT - *DATÉ À* IN THE PROVINCE OF - *DANS LA PROVINCE DE* THIS - *CE* DAY OF - *JOUR DE* AD 19

SIGNATURE OF DEPOSITOR - *SIGNATURE DU DÉPOSANT* WITNESS - *TÉMOIN*

NAME OF C.I.C. - *NOM DU CIC*	FILE NO. - *Nº DE RÉF.*	SIGNATURE OF AUTHORIZED OFFICER REQUIRING DEPOSIT *SIGNATURE DE L'AGENT AUTORISÉ EXIGEANT LE DÉPÔT*	DATE

☐ PREVIOUS CASH DEPOSIT NO. ____ IN THE AMOUNT OF $ ____ TO BE REDUCED BY $ ____
SOUSTRAIRE $ ____ *DU DÉPÔT EN ESPÈCES PRÉCÉDENT Nº* ____ *QUI S'ÉTABLIT À $* ____

☐ I / *JE* ____ (IMMIGRATION OFFICER) *(AGENT D'IMMIGRATION)* ACKNOWLEDGE RECEIPT OF THE ABOVE CASH DEPOSIT FROM ▶ *ACCUSÉ RÉCEPTION DU MONTANT EN ESPÈCES SUSDIT DÉPOSÉ PAR* NAME OF DEPOSITOR *NOM DU DÉPOSANT*

SIGNATURE OF PERSON MAKING DEPOSIT ▶ *SIGNATURE DU DÉPOSANT* DATE ▶

IMM 514 VP-P (04-89) B This form has been established by the Minister of Employment and Immigration – *Formulaire établi par le Ministre de l'Emploi et de l'immigration*

Canada 03-90 **DEPOSITOR – *DÉPOSANT*** 1

Employment and Immigration Canada Emploi et Immigration Canada

PERFORMANCE BOND

THE IMMIGRATION ACT

IE 3
APP. "C"

CANADA
PROVINCE OF _____

In the matter of the Immigration Act (hereinafter called the Act) and

of _____
(Name of person)

KNOW ALL PERSONS BY THESE PRESENTS, that I, _____
(Name of person bound)

of _____
(Present address)

am held and firmly bound unto Her Majesty The Queen in right of Canada, Her Heirs and Successors in the penal sum of _____ dollars to be paid to the Receiver General of Canada, for which payment I bind myself, my Heirs, Executors and Administrators and everyone of them firmly by these presents.

The condition of the obligation is such that if the said _____
(Name of person)

☐ who is being released from detention, pursuant to the Act, and

☐ in respect of whom terms and conditions have been imposed pursuant to the Act,

abides by the following terms and conditions:

then this obligation shall be void, but otherwise shall be and remain in full force and effect.

Dated at _____ this _____ day of _____ 19 _____.

Signed and delivered in the presence of:

_____ _____
(Signature of witness) (Signature of person bound)

Required by me on the _____ day of _____ 19 _____ at _____

in the province of _____.

_____
(Signature of authorized officer and title)

NOTICE

In the case of default or breach of any of the terms and conditions agreed to above legal proceedings may be taken to enforce the bond.

IMM 1230 VP-P (11-88) B

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION

FRANÇAIS AU VERSO

Canada

Employment and Immigration Canada Emploi et Immigration Canada

PERFORMANCE BOND

THE IMMIGRATION ACT

(Where there are CO-SIGNORS)

CANADA
PROVINCE OF _____

In the matter of the Immigration Act (hereinafter called the Act) and

and _____
(Name of person)

KNOW ALL PERSONS BY THESE PRESENTS, that we _____
(Name of person jointly bound)

of _____
(Address)

and _____, of _____
(Name of person jointly bound) (Address)

be held and firmly bound unto Her Majesty The Queen in right of Canada, Her Heirs and Successors in the penal sum of _____ lawful money of Canada, for which payment we jointly and severally bind ourselves, our, and each of our heirs, executors, and adr these presents.

The condition of the obligation is such that if the said _____
(Name of person)

☐ who is being released from detention, pursuant to the Act, and

☐ in respect of whom terms and conditions have been imposed pursuant to the Act,

abides by the following terms and conditions:

then this obligation shall be void, but otherwise shall be and remain in full force and effect.

Dated at _____ this _____ day of _____ 19 _____.

Signed and delivered in the presence of:

_____ _____
(Signature of witness) (Signature of person bour

_____ _____
(Signature of witness) (Signature of person bour

Required by me on the _____ day of _____ 19 _____ at _____

in the province of _____.

_____
(Signature of authorized officer

NOTICE

In the case of default or breach of any of the terms and conditions agreed to above legal proceedings may be taken to enfor

IMM 1259 VP-P (11-88) B

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION

FRANÇAIS AU VERSO

07–89

Employment and Immigration Canada Emploi et Immigration Canada

IE 3
APP. "E"

ACKNOWLEDGEMENT OF TERMS AND CONDITIONS

THE IMMIGRATION ACT

CANADA
PROVINCE OF _____

In the matter of the Immigration Act, (hereinafter called the Act) and

of _____
(Name of person)

KNOW ALL PERSONS BY THESE PRESENTS, that I, _____
(Name of person)

of _____
(Present address)

Formerly of _____
(State place of domicile before coming to Canada)

☐ Acknowledge that I am being released from detention pursuant to the Act subject to the terms and conditions mentioned hereunder;

☐ Acknowledge that I must abide by the following terms and conditions imposed pursuant to the Act:

TERMS AND CONDITIONS

Dated at _____ this _____ day of _____ 19 _____.

Signed and delivered in the presence of

_____
(Signature of witness)

_____
(Signature of person concerned)

Required by me on the _____ day of _____ 19 _____ at _____

in the Province of _____.

_____
(Signature of authorized officer and title)

IMM. 1262 VP-I (09-88)B

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FRANÇAIS AU VERSO

07-89

Canada

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CHAPTER IE 4

INLAND CONTROL

AUTHORITY

Act: 2, 10, 11, 14, 15, 16, 17, 18, 19, 23, 24, 25, 26, 27, 32, 97, 111.

Regulations: 2, 14 to 26 inclusive, 49.

Unemployment Insurance Act, 1971: 125, 126.

Unemployment Insurance Regulations: 190.

GENERAL INTENT

4.01 CONTROL SYSTEMS

1) Control systems are intended to protect the integrity of the immigrant selection system, to protect employment opportunities for legal residents of Canada, to ensure that opportunities for illegal immigration are minimized and to prevent Canada from being used purely for the convenience of persons who have no commitment to the national welfare. Our control system encompasses visa requirements, terms and conditions on admission, security deposits, Minister's Permits, returning resident permits, student and employment authorizations, social insurance number registration, all documentation procedures and other features, all of which have their basis in the legislation.

2) The distinctive SIN ("9") component of the social insurance number card legislation is intended to discourage visitors from taking employment illegally, to help employers identify persons who need employment authorizations; and to assist the Commission in taking action against employers who employ illegal residents or others not authorized to engage in employment.

3) This particular chapter is concerned with the inland controls but does make reference to other specific aspects of the system.

4.02 - 4.03 SPARES

GUIDELINES

4.04 INLAND CONTROL FEATURES

Inland control is a part of the overall control system and includes:

1) applications by permanent residents to vary or cancel terms and conditions on landing (A15(2));

2) applications by visitors to vary or cancel terms and conditions imposed on entry (A16(1)(a));

3) applications by visitors to extend the period of time for which they have been authorized to remain in Canada (A16(1)(b));

4) applications by visitors for student and/or employment authorization (A16(2)(a) and (b) and A16(1)(a) and (b));

5) applications for returning resident permits (A25(1));

6) forfeiture of visitors' security deposits (A18(2)).

4.05 TERMS AND CONDITIONS IMPOSED ON ADMISSION

1) A14(2)(a), (3) and (4) authorize an immigration officer to impose terms and conditions of a prescribed nature on either immigrants or visitors at the time of their admission to Canada. This authority is extended to a senior immigration officer in A23(1)(a) and A23(2), and to an adjudicator pursuant to A32(3)(a) and A32(4). R23 establishes the nature of the terms and conditions and differentiates between those which may be imposed on immigrants and those for visitors (see IE 2.28 and 2.29).

2) Where a person is granted discretionary entry under A19(3), the terms and conditions are not restricted to those set out in R23, but may be any condition which a senior immigration officer or an adjudicator deems appropriate.

4.06 VISITOR SECURITY DEPOSITS

For complete details on visitor security deposits, refer to Chapter IE 3.

4.07 IMMIGRATION INTERVIEWS

1) Legally, there is no mechanism to require a person to answer questions at an interview (e.g. an interview to extend the period of authorized stay in Canada). Persons who refuse to provide requested information or to answer questions at interview should simply be advised that their failure to co-operate will preclude this Commission from granting whatever it is that is being requested.

2) While a client does not have a legal right to counsel at an interview, it has been the Commission's policy to leave it to the discretion of the interviewing officer to allow the presence of counsel. However, as mentioned above, the lack of consistency in applying criteria for admitting counsel has led to certain difficulties.

3) Commission policy shall be to allow legal or lay counsel to attend Immigration interviews, with the exception of counsel who:

1) persist in answering the clients' questions, instead of allowing the client to answer questions directly to the officer;
2) advise the client not to answer a question (there is no legal requirement to force a person to answer a question, however, the client could be advised that it is not in his best interests to refuse to answer);
3) impede the officer's interview by interrupting continually or for no ostensibly helpful reason;
4) attempt to purposely confuse legitimate issues or concerns related to the case at hand;
5) become verbally or physically abusive to the officer, or other Immigration staff; or,
6) cause any other delays, disruptions, or annoyances which impede the progress of the interview.

Non-legal counsel will be granted the same privileges as legal counsel, and accordingly, will be expected to comply with the same standards of conduct.

4) Where officers are confronted with disruptive counsel, the latter are to be advised of the Commission's position regarding unacceptable conduct as outlined above. Copies of these guidelines should be readily accessible to provide to disruptive counsel as required. Where such conduct persists and where the officer is effectively impeded from proceeding with a proper interview, the interview is to be terminated. In every instance where such action is deemed necessary, a written report of the incident is to be provided to Regional officials and NHQ notified where further action is deemed advisable. As the presence of counsel at interviews is a privilege and not a right, activities which impede this process should not be tolerated.

5) The rationale for allowing counsel to attend interviews is based, however, on the recognition that most do not disturb proceedings and the belief that those individuals who need assistance should have the privilege of legal or lay counsel. It is the Commission's position, however, that this privilege will not be abused.

4.08 - 4.11 SPARES

4.12 APPLICATION BY A VISITOR IN CANADA (A16)

1) Application to Vary or Cancel Terms & Conditions

a) Subject to A16(2) (see 2) following), any visitor other than one admitted under A19(3) may make an application to an immigration officer to vary or cancel the terms and conditions imposed at the time of entry (A16(1)(a)).

b) Where such an application has been refused by an immigration officer, (A17(1)), and the visitor is still within the period of time for which he was authorized to remain in Canada, the visitor may make another application in the manner prescribed in R24.

2) No application in Certain Circumstances

Pursuant to A16(2), no visitor in Canada (unless he is in the prescribed classes as established in R16(1) on student authorizations or in R19(3) pertaining to employment authorizations) may make an application, (A16(1)), to attend any university or college or take any academic, professional or vocational training course, or to engage in employment in Canada.

3) Application to Extend Time Period in Canada

a) A visitor, upon being granted entry, is always required to leave Canada by a specified time, whether it is within the maximum 3 month period established by A26(2), the time imposed pursuant to R23(e)(vi), or the period for which discretionary entry was granted pursuant to A19(3). Except for the latter case, any visitor may make application under A16(1)(b) to have the period of stay in Canada extended. Where an immigration officer approves such an application, any terms and conditions that were imposed may be varied or cancelled or new ones added.

b) Where a visitor comes within the appropriate prescribed classes of R16(1) or R19(3), dealing with student and employment authorizations respectively, he may, in making an application to extend the period of stay in Canada, (A16(1)(b)), include with this an application for the specific authorizations he requires. Should an immigration officer approve the application made to extend the visitor's time period, he could also grant the appropriate student or employment authorization provided the visitor complied with the requirements for such authorization.

c) A visitor, during his period of stay in Canada, may make more than one application pursuant to A16(1)(b), to extend the duration of the visit. In such cases, officers must use their own judgment as to the reasonableness of the request, taking into consideration the person's intent and ability to care for himself while in Canada.

d) See IS 14.19 and IS 15.11 regarding the appropriate circumstances for the granting of long-term visitor status.

4) Late Applications

a) All visitors must be advised to make application to vary or cancel terms and conditions or to extend the duration of their visit well in advance of the last day for which they were granted entry. A person who remains in Canada for a period of time greater than that for which he is authorized to remain here ceases to be a visitor (A26(1)(c)), and therefore cannot make an application under A16(1).

b) Where an application is made within the validity of a visitor's stay in Canada but administrative procedures cannot be completed before the expiry of the time period, an officer should take a second application for an interim extension of time to cover the period of processing, where it is consistent with the Act and Regulations to do so. The initial application must then be processed in accordance with the applicant's status in Canada as of the date the application was presented to an immigration officer.

c) All applications made pursuant to A16(1) must be processed as soon as is practicable and, in any event, before the visitor's status expires.

d) The Federal Court has ruled, in the case of Kantilal Parmar, that where a person's visitor status expires on a Saturday or a Sunday and he does not report to an Immigration Centre until the following Monday, the person concerned is reportable pursuant to A27(2)(e). This applies as well to cases of status expiring on a statutory holiday. Such a person may not legally be granted an extension of visitor's status. A Minister's Permit will have to be issued to allow a person, who reports after his status has expired, to remain in Canada.

e) When granting or extending visitor's status, officers should ensure that the expiry date will not fall on a weekend or statutory holiday.

5) Duties of an Immigration Officer

a) Where an application is made pursuant to A16(1), an immigration officer must hear and consider the request and the reasons for which the request is being made before approving or refusing the application:

i) where it is not inconsistent with any provisions of the Act and Regulations to do so, an officer will be expected to approve the application;

ii) where an officer is of the opinion that it would be contrary to the Act and Regulations to approve an application or where the person cannot provide a believable reason for the request, the officer should ensure that the applicant:

A) is informed of the reasons for the refusal,

B) is made aware of his present status in Canada, and

C) understands the obligations under any existing terms and conditions.

b) Persons making an application pursuant to A16(1), are not seeking admission and therefore cannot be examined, as defined in the Act. However, pursuant to R24(3), officers may convoke for interview such individuals and may ask questions pertaining to the person's status in Canada, the reasons for the application and any other information that the officer feels may be necessary for this decision.

c) When granting or refusing an extension, officers should not advise the person concerned that this is his "last extension" or that "no further extensions" will be considered. This concerns written notification to the client. Such categorical statements could be found to unduly encumber the discretion of an Immigration officer considering subsequent applications to vary terms and conditions.

d) An application under A16(1) by a person who has been the subject of an A27(2) report where no inquiry was directed should be heard and considered like any other. That is to say that the grounds for the report should not, by themselves, normally result in the refusal of an extension. Particular care is to be taken when the report was the result of a conviction. It is insufficient to refuse simply because the person would be inadmissible at a port of entry. If the person refused to leave, inquiry action would be made necessary negating the discretion that allowed him to remain in the first place. One must also bear in mind that, in exercising that discretion, the Manager already reviewed the violation in the light of all of the circumstances in the case. It will, therefore, normally be new information and a failure to meet some other requirement of the Act and Regulations that cause a refusal.

6) Notes on Refusals

The Act does not require that an officer give reasons for a refusal in writing as a refusal is a purely discretionary act not normally subject to judicial review. However, it is advisable for an officer to keep notes of any reasons for a refusal in the event that the applicant complains that an officer has acted outside his authority or has made a completely arbitrary and perverse decision.

4.13 SPARE

4.14 APPLICATIONS BY PERMANENT RESIDENTS TO VARY OR CANCEL TERMS AND CONDITIONS (See also 4.30)

1) Where a permanent resident has been granted landing subject to terms and conditions and has complied with such, the terms and conditions are deemed to have been cancelled six months after the day on which the person was landed, (A15(1)).

2) In addition to the above, a permanent resident may, at any time, make an application pursuant to A15(2) to have an immigration officer vary or cancel terms and conditions imposed at landing.

3) When an immigration officer, pursuant to A17(1), approves or refuses an application made by a permanent resident to vary or cancel terms and conditions, this does not preclude the permanent resident from making a subsequent application.

4.15 DEFINITION OF EMPLOYMENT - WORK PERFORMED BY VISITORS WHILE GUESTS OF RELATIVES

1) Employment is defined in the Immigration Act as "any activity for which a person receives or might reasonably be expected to receive valuable consideration".

2) There is no difficulty in applying this interpretation in those cases where there is a clearly defined employer - employee relationship. The problem arises in those situations where the relationship is less clear or precise by virtue of the employer being a relative, friend or host of the employee. It is on this latter point where considerable care must be taken in judging whether a visitor to Canada has engaged in employment contrary to the terms of his entry. The basic concern of the Act is whether or not a work opportunity is being denied a Canadian citizen or permanent resident because of the assistance given by a foreign visitor to the relative being visited. In other words, if jobs for Canadians are not affected, such assistance might not be construed as employment.

3) In cases which have gone before the courts, the main theme which comes through, although not all that helpful, is that not all work performed by a visitor for a host, relative or friend falls within the definition of employment even if the employer would have had to pay compensation if he had chosen to have the work done by a stranger. A host of variables are involved and much depends on the nature of the work (assistance) and the circumstances in which it is performed.

4) In determining whether an activity might be considered employment as defined, the main criterion would seem to be whether the work being performed is of a substantial nature and whether it also deprives a Canadian of gainful employment.

5) The following factors, many of which have been provided by the Regions based on their experience with the issue, will assist in judging whether a visitor has engaged in employment.

   a) nature of the activity - is it of a substantial nature? - necessary for the conduct of the business?

   b) are the duties unique to the subject or are other employees performing the same?

   c) was someone released from employment because subject assumed the activity or, alternatively, someone not hired because of subject's commencement of activity?

   d) did the subject receive a salary or other consideration?

   e) was the consideration given in return for the service or was the service given in appreciation of the consideration;

   f) would the consideration have been given if the subject had not performed the activity.

6) Finally, it must be determined what evidence can be provided in support of these factors, especially so in the case of Inquiries and before the Courts.

4.16 - 4.18 SPARES

4.19 SOCIAL INSURANCE NUMBER CARD LEGISLATION

1) The legislation governing the issuance of SIN cards contains three principle features:

   a) All applicants for a new or replacement SIN card must submit evidence of identity and status in Canada (citizen, permanent resident, visitor) in conjunction with their application.

   b) All persons who are not citizens or permanent residents (visitors, permit holders) who may require a SIN card, are issued a card with a distinctive number beginning with "9".

   c) Penalties are provided in law for employers who engage the services of holders of "9" cards without verifying that the individual concerned has proper authorization to work.

2) There are a number of legitimate reasons for obtaining a SIN card (i.e., for investment, income tax purposes and pensions). There will be visitors seeking to come into Canada or already in the country who will request assistance at a CIC in obtaining a SIN card for reasons other than employment. In such cases, refer to IE 4.41.

4.20 REQUESTS TO AMEND LANDING RECORDS

1) When confronted with a request to amend a landing record, CICs will consider the following facts:

   a) The Canadian Immigration Record and Visa (IMM 1000) is a record of a historical event and, as such, its intent is to reflect the circumstances of the person concerned at the time of landing in Canada;

   b) The IMM 1000 is not an ongoing identity document;

   c) When signed by an immigration officer at a port of entry, a form IMM 1000 is a record of the grant of permanent resident status as defined in the Immigration Act, 1976, and is not proof of any other status or qualifications.

2) For the reasons outlined above, landing records will not be amended to reflect events (e.g., marriages, name changes, etc.) that have taken place since landing. Similarly, requests to alter language capabilities, native languages, intended occupation, experience, passport particulars, immigrant category, amount of money to be transferred to Canada and, name and address of person willing to assist, will not be entertained.

3) a) Where a form IMM 1000 contains inexact information which was not corrected prior to landing and which detracts from the evidentiary value of the document (name, date or place of birth, etc.) the official records will be amended upon request provided the person can produce documentary evidence that the information on the form was incorrect at the time of
* landing. Where a section 27 report evolves from a request to amend records, the records will not be amended until the section 27 report has been dealt with to conclusion.

   b) Acceptable documentation might include birth, baptismal or marriage
* certificates, school records, etc. Where there is a doubt about the genuineness of a document, a supporting document should be requested that predates the individual's interest in migration to Canada. (See procedures at 4.45).

4) From time to time the Registrar, Citizenship Registration, Secretary of State and Income Security Programs of Health and Welfare Canada receive requests from permanent residents and naturalized Canadian Citizens to amend the records that they have with one or both Departments (name, date or place of birth, etc.). Such persons will be informed that requests of this nature should first be submitted to a Canada Immigration Centre for action under 4.45. Once Immigration has ruled on the requested amendment, they will then consider the request as it affects their Departments.

4.21 - 4.29 SPARES

PROCEDURES

4.30 APPLICATION TO VARY OR CANCEL TERMS AND CONDITIONS - PERMANENT RESIDENTS

1) A permanent resident may make an application pursuant to A15(2) at any time to have an immigration officer vary or cancel terms and conditions imposed at landing. Every application must be in writing and must contain all information described in R24(1). The form IMM 1249 (see App. "C") will be used for this purpose. An applicant may be requested by an immigration officer to appear for a personal interview (R24(3)).

2) Where the condition that the person marry within 90 days (R23(d)(i)) has been imposed at landing, an immigration officer cannot vary the stipulated 90-day period. In such cases, after having taken into consideration all the details of the request, an officer would either have to cancel the terms and conditions where he was of the opinion that the request was reasonable, or refuse the application.

3) Where the condition that the person report for medical observation and treatment (R23(d)(ii)) was imposed at landing, an immigration officer may approve an application to vary the place and time of reporting, but because of the potential danger to the public health, should not cancel the conditions without consulting with a regional medical officer for concurrence.

4) Where the condition that the entrepreneur, within 5½ months of landing (R23(d)(iv)), establish or purchase a substantial ownership of a business in Canada, employing more than 5 Canadians, and participate in the daily management of the business, an immigration officer cannot vary the stipulated 5½ month period. In such cases, after having seen evidence of compliance within 5½ months, an officer could cancel the terms and conditions as a means of formally satisfying the applicant of his compliance. As we have no legal way of formally showing an entrepreneur has met the terms and conditions, some applicants were not satisfied with the mere fact that A15(1) provides for deemed cancellation six months after the landing date if the terms and conditions have been complied with. Besides, a report under A27(1)(b) can still be submitted after 6 months on an entrepreneur who has not complied with the terms and conditions within 5½ months.

5) Where an application to vary or cancel terms and conditions is approved, an immigration officer must submit a memorandum to the Query Response Centre (QRC), Planning and Program Management Branch, Immigration NHQ, concerning the change and citing the tombstone data as well as the serial number on the original form IMM 1000. It is not necessary to notify the QRC when terms and conditions have been complied with.

   a) Where terms and conditions are varied, an immigration officer should impose a condition requiring evidence of compliance to enable cancellation of the conditions at the earliest possible date and to ensure that the permanent resident does comply with the conditions (see R23(d)(iii)).

b) When drafting new terms and conditions, or where varying those that exist, it is not absolutely necessary that the officer state in the memorandum the terms and conditions precisely as worded in R23. However, wherever possible, it would be advisable to adopt the wording of the Regulation itself.

6) Where an application is refused pursuant to A17(1) and the terms and conditions imposed at landing have been knowingly contravened, an immigration officer shall make a report pursuant to A27(1)(b) citing the details of the contravention.

4.31 APPLICATION BY VISITORS TO VARY OR CANCEL TERMS AND CONDITIONS OR TO EXTEND TIME IN CANADA (Other than Students or Workers)

1) Applications by visitors pursuant to A16(1) must be in writing and must contain all information required in R24. Form IMM 1249 will be used for this purpose.

a) Where the applicant is a young child, the application may be made by a parent, guardian or whomever the child is dependent on while in Canada.

b) There is no requirement for visitors to apply in person when making application under A 16(1), to vary or cancel the terms and conditions of their status in Canada.

2) Where an officer feels it necessary, R24(3) authorizes him to request the applicant to appear for a personal interview. This may be done where the officer is seeking more information on which to base his decision or is attempting to confirm the applicant's identity.

3) Form IMM 1097 will be used to record the variation or cancellation of terms and conditions as well as any extension of time during which the visitor may remain in Canada.

a) Where a visitor was given an IMM 1097 upon entry or subsequent thereto, the original serial number must be entered in the appropriate box on the new "Visitor Record" form.

b) Where an extension of time is approved, an immigration officer will also note the extension in the passport or travel document, where applicable, and affix his office stamp. The expiry date should be recorded as
* follows: **day, month and year** (day - 2 numeric digits (zero fill when required), month - 2 alpha digits using the international bilingual abbreviations (JA, FE, MR, AL, MA, JN, JL, AU, SE, OC, NO, DE), year - 4 numeric digits). **For example: 26 NO 1990.**

c) Officers may grant extensions without documentation to visitors who have not already been documented and who would not now be documented for control purposes where the total authorized length of stay will not exceed three months. In these cases, officers should stamp the passport, inscribe date of entry and initial the page.

d) Where accompanying dependants, who were only documented on the head of family's document at the time of entry, subsequently request an extension to their visitor status beyond 90 days, they must be issued separate documents. The only exception to this general rule are pre-primary school age children, who may be "carried" as accompanying dependants on the head of family's document.

4) In all cases, an immigration officer should advise the visitor of the obligation to observe the terms and conditions imposed and of the need for the visitor to obtain formal approval in writing should he wish to have any term and condition varied or cancelled. Applications under A16(1) should be presented to an immigration officer well in advance of the day on which his authorized period of stay in Canada will expire.

4.32 MEDICAL CERTIFICATES

Where an application is made by a visitor for an extension of the time for which he is authorized to remain in Canada for an employment authorization or for a student authorization, and a medical certificate is required pursuant to R21, the guidelines and procedures will be found in IS 8.

4.33 NO LOSS OF VISITOR STATUS

Where a visitor makes an application pursuant to A16(1) he does not thereby lose his existing status. For that reason, if an application is refused, the visitor will be informed that he can continue his visit until his present status terminates.

1) The above does not preclude an immigration officer from making a report where, in his opinion, the person falls within A27(2).

2) However, as the person has made himself known to an immigration officer, it is unlikely that the person poses a danger to the public or will, where a report is made, disappear straightaway. Therefore, there should be little need for an officer to exercise his authority under A104(2), concerning arrest without a warrant, in these cases.

4.34 ISSUANCE OF EMPLOYMENT AUTHORIZATION

1) Where, pursuant to A16(1), an application has been made on form IMM 1249 to vary or cancel terms and conditions or to extend the period of the visitor's stay in Canada, and an employment authorization is sought, the guidelines will be found in IS 15. Documentation procedures are outlined in ID 4.

2) a) R19(3) allows certain persons who are in Canada to make an application for the purpose of obtaining an employment authorization. As an offshoot of this Regulation, immigration officers may extend the duration of time for which an authorization is valid. This would be done after an application pursuant to A16(1)(a) or (b) has been made and the officer has approved the application. A new form IMM 1102 would be issued.

b) To ensure an employment visa holder does not lose his right to apply for an extension from within Canada after expiry of the authorization period, immigration counsellors and examining officers should emphasize to applicants that extensions are to be requested well in advance of the expiry date of their current authorization (at least one month).

c) Failing the above, requests, although made within the applicant's current authorization period, may not allow sufficient time for the appropriate CEC to determine whether a certification is warranted.

d) In such cases, an interim IMM 1102 may be issued (valid for no more than two to four weeks) pending the CEC's processing of the request. Another IMM 1102 may be issued when the employment validation is received. When the CEC does not grant employment validation, the interim IMM 1102 may be allowed to expire.

e) Immigration officers are to keep the issuance of interim IMM 1102s to a minimum.

3) Where the application is approved and an employment authorization issued, an immigration officer should impose terms and conditions which reflect the terms of the authorization, e.g. the type of employment in which the visitor shall engage, the employer for whom he shall work and the period of time within which the visitor must leave Canada. Also, the officer may wish to have the visitor show evidence of compliance with the terms and conditions imposed. Form IMM 1102 will be used to record the terms and conditions.

4) As a general rule, changes in employers will be rare, mainly because it is not intended that an employment authorization be used as permission to find other employment. However, extensions of the duration of time for an employment authorization may be more frequent, due mainly to an underestimated length of time necessary for completion of the work.

4.35 ISSUANCE OF STUDENT AUTHORIZATION

1) a) Where, pursuant to A16(1), an application has been made on form IMM 1249 to vary or cancel terms and conditions or to extend the period of the visitor's stay in Canada, and a student authorization is sought, the guidelines will be found in IS 14. Documentation procedures are outlined in ID 4.

b) All students must be given the address of the CIC nearest the institution they will attend and they must be instructed to report to that office at least 30 days prior to the expiry date shown on the "Student Authorization" form if they require an extension or expect, on the expiry date, to be still in Canada.

2) a) Officers may only grant a student authorization to a visitor in Canada as provided in R16(1), and if the individual can meet all the student requirements.

b) The legislative intent of the student authorization under R16(1)(b) is to enable a temporary worker or visitor(tourist) to take a short term and/or part time day or evening course of a nature which is quite incidental to the main purpose of the individual's presence in Canada. It is not to be used to overcome an individual's inability to meet normal student requirements or to allow for individuals, e.g., dependent children of ordinary visitors to Canada, to enroll in a school or other institution in a course of study which is of a continuing and/or substantial nature. Requests for transfers to full-time student status where the request is based on the fact that the person is in possession of a valid student authorization issued pursuant to R16(1)(b) will normally be refused (see also IS 14.05). Student authorizations are not required for visitors who are already documented on employment or student authorizations and wish to take general interest courses as described in IS 14.04 3).

3) Students who wish to extend their authorizations or who terminate their course of study and wish to remain in Canada for a further period of time, must make application on IMM 1249.

4.36 EXTENSION OF STUDENT AUTHORIZATION

1) Application for the extension of a student authorization must be made in the same manner as any application to vary or cancel terms and conditions or to extend the duration of a visitor's stay in Canada. Form IMM 1249 will be used for this purpose (see 4.35 1)).

2) Such applications should be made at the CIC nearest the institution the student is attending, as outlined in 4.35 1)b).

3) Where an application is made for an extension of the student authorization at a CIC other than the one holding the student's file, before granting an extension, the immigration officer should consult with the original CIC to ensure that the application for extension is in order. When authorizing any changes, the officer, where applicable, should forward the student's file to the CIC to whose jurisdiction the student is destined.

4) a) Students who request extensions prior to the expiry of their current authorizations, to ensure that their authorizations will be valid on return to Canada from a vacation abroad, may be granted such, provided all other requirements, including acceptance at the school or institution, are met.

b) Applications will be made on IMM 1249, in accordance with the requirements established in R24. Upon approval, an immigration officer will issue a new IMM 1208.

4.37 - SPARE

*4.38 ISSUANCE OF MINISTER'S PERMITS - STUDENTS

* 1) Where a student has been reported pursuant to 27(2), but has not ceased to be a visitor, and is not being directed to inquiry, that student should not be placed on a Permit but should be allowed to continue with his or her exisitng visitor status. (See also IS 10.40 5) and IS 10.25 1)).

Where a student in the above situation has ceased to be a visitor a decision may be made to place him or her on a Permit taking into consideration the following criteria: such permits will normally be extended pending completion of the course/programme, unless no hardship would be involved in the student applying for a student authorization at a visa office. For example, students planning to return home for the summer months should be advised to regularize their status prior to returning to Canada. Visa officials who issue the new IMM 1208 should staple the Permit (IMM 1263) to the IMM 1208, to ensure that both documents are shown at the port of entry. This will prevent such persons from entering Canada on the basis of the valid Minister's Permit and later showing up with the IMM 1208 at an inland CIC, where they cannot be dealt with and must remain on Permit.

* 2) a) When determining whether or not a Permit should be issued to a student who has contravened provisions of the Immigration Act, responses to the following questions should be considered:

- Did the student wilfully and deliberately violate the law?
- Has the student contravened the Act previously?
- Does the student pose a danger to public health and safety?
- Does the student have a legitimate reason for not being able to meet the Immigration Act and/or Regulations?
- Are there any humanitarian or compassionate grounds which warrant special consideration?

b) Consideration should also be given to the investment the student has made in his or her academic program. The nature and seriousness of the violation should be weighed against whether the student is in the initial or latter stages of the program. The greater the student's time and investment in Canada and the nearer he or she is to graduation, the more serious should be the infraction to justify inquiry action. Officers should always bear in mind, particularly where the student is in the latter stages of his or her program, the financial and academic penalty the student may ultimately have to pay if we were to direct him or her to inquiry and ultimately initiate removal action.

c) Students who have left Canada for a short period of time and are now seeking entry within the validity of their students authorization but who are not in possession of a CVV, would normally be issued a permit.

d) The issuance of a Minister's permit will normally be considered in the following circumstances:

i) Where a student is in possession of a valid CVV and a valid student authorization, but his or her passport or travel document has expired.

ii) Where a student is in possession of a valid passport and student authorization, but his or her CVV has expired.

iii) Where a student is in possession of a valid CVV and passport, but the student authorization has expired and the student can provide satisfactory evidence that he or she is continuing at school.

3) Students who have graduated from a particular course (e.g. students who have completed grade 13 and wish to enter university) will normally be asked to leave Canada and apply for new student authorization. This would conform to the intent for which the permit was issued (i.e. to allow the student to complete the course rather than facing inquiry). However, officers must be guided by the circumstances of each case. Officers must ensure that such action does not cause excessive financial hardship. In order to minimize difficulties, Minister's Permits should not span two courses/programmes. For example, a student entering Grade 12 in September may be granted a permit valid to the following fall. However, a student entering Grade 13 should only be granted status to the end of the school year.

4.39 SPARE

4.40 VISITOR VISAS - SUBSEQUENT ENTRIES WITHIN VALID AUTHORIZATIONS

Immigration officers in Canada will be approached by holders of valid authorizations who are from non-visa exempt countries and who wish to travel for brief periods to non-contiguous territory and to return to Canada within the validity of their authorizations. In such cases, the holder of the authorization must apply for, and obtain, a visitor visa abroad before seeking re-entry to Canada and should be counselled to this effect (see also IE 2.38). It should be noted that St. Pierre and Miquelon, as well as the United States, are considered contiguous territories. Therefore, holders of valid and subsisting authorizations seeking to return to Canada from the U.S., St. Pierre and Miquelon, where the authorizations were issued prior to the departure from Canada, do not require visas to gain re-entry to Canada, as long as they return within the authorized period. (Reference Section 11 of Schedule II of Regulations - Chapter IL 2.)

4.41 SIN PROCEDURES AT INLAND CICs

1) Referral to CECs

Inland CICs will refer ALL clients who require SINs to their local CEC.

2) R19(1) Cases

There may be instances where visitors, granted entry under a paragraph of R19(1), will be receiving remuneration from a Canadian source. In view of the small numbers involved, such visitors will be documented on IMM 1097 to facilitate their applying for a SIN at their local CEC. In these cases, the IMM 1097 is the ONLY required document and must make reference to a paragraph of R19(1).

3) Return of SIN Cards to CEIC

Before voluntary departure is allowed or removal effected, SIN cards will be siezed. See IE 14.69.

4.42 - 4.43 SPARES

4.44 PAYMENT OF FAMILY ALLOWANCES TO VISITORS IN CANADA

1) Conditions

In accordance with the Income Security Programs of Health and Welfare Canada (H&WC) family allowances are payable to visitors and permit holders in Canada provided that at least one of the parents has been granted entry as a visitor or a permit holder for a period of not less than one year and whose income during that period is subject to Canadian income tax.

2) Determination of Eligibility and Documentation

a) The determination of eligibility for payment of family allowances can only be made by the appropriate Income Security Programs Directorate. Applicants who may be eligible for benefits, or who have questions concerning eligibility under the program, should be counselled to contact one of the Regional Income Security Programs offices located in the capital city of each province or one of the many District Income Security Programs offices in the various major centres in Canada.

b) Completed application forms, accompanied by appropriate Canadian Immigration visitor or permit holder documents, e.g., IMM 1097, IMM 1102, IMM 1208, IMM 1263, etc., as applicable, should be mailed to the Regional Income Security Programs office in the capital city of the province in which the applicant resides.

c) When members of a family enter Canada on different dates and are documented separately but, on extension of their status, are documented on one form, care must be taken to ensure that the dates of original entry of the accompanying family members listed on the principal applicant's form are entered in the REMARKS section of the form. Also, the words "husband (or) wife only" (as the case may be) should be inserted beside the DATE OF ORIGINAL ENTRY section of the principal applicant's forms. These dates are necessary for H&WC to determine eligibility for commencement of Family Allowance payments.

4.45 REQUESTS TO AMEND RECORDS OF LANDING

1) a) Permanent Residents and Canadian Citizens requesting that their immigration record of landing be amended are to be informed of the points mentioned in 4.20. In addition, they will be informed that, since the official records at NHQ are retained on microfilm, the record cannot be physically amended or changed but they will be provided with a copy of form IMM 1436 if their request is accepted by NHQ.

b) From time to time, CICs will receive requests from permanent residents and Canadian citizens who have been referred to the CIC by either Canadian Citizenship Registration or Health and Welfare Canada. They are to be dealt with as in 1(a) above.

2) a) i) When accepting a request to amend a landing record (see 4.20-3)), CICs will complete an IMM 1436 and have it signed by the person requesting the amendment. In the case of a minor the responsible parent or guardian will sign. The reason for the requested amendment will be recorded in the "Remarks" box. (Please remember that a copy of the IMM 1436, if approved, will be issued to the person concerned which will include his/her reasons and your comments, if any.) The IMM 1436, accompanied by the supporting documents, is to be sent by the CIC, to the Chief, Transportation

Programs, Settlement Branch, NHQ. Although statutory declarations or affidavits without supporting evidence will not normally be accepted, one may be taken which will include an explanation for their absence and a covering memorandum will indicate the type of evidence produced by the person concerned to substantiate the change. Requestees will be told NOT to write directly to NHQ.

ii) The IMM 1436 should be completed in one of the official languages (English or French). The choice of language will be that requested by the client. If no preference is indicated, the IMM 1436 will be completed in the language of the original IMM 1000.

b) In accepting documentation mentioned in 4.20(3)(b) CIC's may also accept

i) People's Republic of China Family Registers and "Birth Certificates" which were issued prior to an individual's expressed interest in migration to Canada (see conditions in 2(c) following);

ii) Taiwan Family Registers; and

iii) Hong Kong Records of Identity Registration.

Where such documents are presented, the originals will be photocopied by the CIC, certified by the Immigration officer and will be sent to NHQ with the IMM 1436.

c) "Birth certificates", based on notorial certificates, are not acceptable for purposes of amending landing records if they were issued subsequent to an individual's expressed interest in migration and are not supported by documentation that predates the individual's interest in migration.

d) Where the CIC has had communication with a post overseas regarding the amendment, to avoid duplication, copies of the exchange of correspondence shall be included with the IMM 1436.

e) Where a Section 27 report is involved a notation will be entered in the remarks box advising of the decision taken on the Section 27 report, (e.g. Sec. 27(1) Report - Favourable).

3) Form IMM 1436 - (Request to amend Immigration Record of Landing) (see Appendix "D")

Preparation

a) Will be completed by an Immigration Officer.

b) Part A. Box 1, 2, 3, 7, 8, 12 and 13 will be completed at all times (so we can identify the person and send them their copy of the IMM 1436 in favourable decision cases) and only where the amendment is to be made.

c) Part B will only be completed where an amendment is to be made (e.g. where incorrect marital status (single to married). Part A Box 8 "single" would be ticked and in Part B Box 8 "married" would be ticked).

d) "Remarks" box will give brief reason(s) for requesting amendment. (Remember, should you make any comments in the "remarks" box the requestee will receive a copy if approved.)

e) Box 14 will be ticked and indicate the amount of fee paid or Box 15 will be ticked and will include basis for exemption. (See Chapter IS 27.45 for fees).

f) The IMM 1436 will be signed by the person requesting the amendment or if a minor, by the responsible parent or guardian.

4) Where an amendment to an IMM 1000 effects the information contained on other IMM 1000's an IMM 1436 will also be required for each of the other IMM 1000 effected (e.g. dependent child's date of birth is changed on his/her IMM 1000. Head of families IMM 1000 will also have to be amended in "Accompanying family member" re. child's date of birth). For cost recovery purposes this would be considered as one amendment as the action relates to one person. Where the amendment would modify the information relating to another (e.g. married couple who now claim they are single) both their records must be amended. This would be considered as two amendments for cost recovery purposes.

5) Distribution

a) Copies 1, 2, 3 and 5 will be sent to the Chief, Transportation Programs, Settlement, NHQ. Copy 4 will be retained by the CIC. Do not remove the carbon paper.

b) The Chief, Transportation Programs, after approval, will send the approved copies 1, 2, 3 and 5 to the FOSS Division where they will complete their necessary action and so endorse all four copies. Copy 5 will then be returned to the CIC and copy 3 will be sent directly to the requestee. Copy 1 (original) and 2 will be kept by NHQ.

6) Officers will not under any circumstances alter or amend information contained in the holder's copy of an IMM 1000.

+ 7) To assist the Department of External Affairs (DEA) in the delivery of our Immigration Programs abroad through feedback, the Chief, Transportation Programs, Settlement Branch, will provide, at the end of each calendar month, each DEA Bureau Director (GRP, RWP, RBP, URR, PGP and LGP) with a copy of the original IMM 1000 issued abroad and a copy of each amendment (IMM 1436), approved that month.

4.46 VERIFICATION OF ADMISSION (To be read in conjunction with IS 27.40)

1) Details Needed by Field Offices

CICs and posts abroad requiring verification of admission of permanent residents for their own purposes will refer to IC 4.26.

2) Details Required by the Public

a) It is known that illegal entrants to Canada have been using copies of landing records (IMM 1000), obtained by fraudulent means, to establish citizenship, request old age pensions, or to perpetrate other frauds. A member of the public requesting details of landing at an office in Canada or abroad will therefore be told that such information must be requested from National Headquarters in Ottawa on his behalf.

b) It has been the practice in some regions to issue "letters of status" to permanent residents who request such evidence. However, the letter of status is not an official form and has no security features, and as a result of discussions with Citizenship Registration Branch, Central Index (UIC), and the Income Security Branch of Health and Welfare Canada, it has been agreed that such letters will no longer be recognized. Since March 1, 1988 only the following documents have been acceptable as proof that a person was landed in Canada:

i) Original holder's copy of the IMM 1000.
ii) A certified copy of the original IMM 1000 produced by the QRC.
iii) Form IMM 2740 - The confirmation of landing document produced by the QRC for all permanent residents who arrived in Canada prior to the issuance of IMM 1000 (i.e. prior to 1952).

3) Records Which Have Been Amended

Where the person concerned has since his arrival in Canada requested an amendment to his landing record which has been approved, he will have, in addition to one of the documents listed above, one of the following documents:

a) for amendments approved prior to March 1, 1987, a letter signed by an immigration official informing him that his landing record has been notated to reflect the amendment requested;

b) for amendments approved since March 1, 1987, a copy of IMM 1436.

4) Persons Without Documentation

Where a person who has no documentation applies for evidentiary documentation at a CIC, the immigration officer will establish the identity of the client, check FOSS, and if appropriate complete and submit form IMM 5009. (See Appendix "B"). Cost Recovery Regulations are applicable for this service (see IS 27.40). Provided there is a record, QRC will mail the appropriate document direct to the person concerned.

5) Where in these circumstances the client has in the past requested an amendment to the landing record, QRC will provide the following documents:

a) for amendments approved prior to March 1, 1987, a certified copy of the IMM 1000 together with a certified copy of the IMM 1277,

b) for amendments approved since March 1, 1987, a certified copy of the original IMM 1000 together with a certified partially completed IMM 1000 reflecting the requested amendment.

6) Requests From the Public Received by the QRC

a) The QRC, upon receiving requests direct from the public for landing information, will forward the correspondence and photocopies of IMM 1000 (or IMM 2740) to the appropriate CIC or post abroad, where release will only be made after identification has been satisfactorily established and the appropriate fee paid (see IS 27.40).

b) In these cases, field offices are requested to contact the persons concerned as soon as possible to avoid follow-up queries to the QRC where copies of the original correspondence will NOT be retained.

7) Persons Landed Prior to 1919

For records of landing prior to 1919, clients will be referred to the National Archives of Canada. No fee is to be collected because such requests are not considered to be verifications of landing, and National Archives do not charge for their services. See Appendix "A" for a sample handout which should be given to these clients. Where there is doubt as to the exact date of landing and the search will span an overlap period 1918-1919, the $25.00 fee must be collected at the time the request is made. Applicants should be counselled on this requirement prior to making their requests. The IMM 5009 will then be completed and sent to the QRC. If QRC locate a record of the entry, and IMM 2740 will be sent as directed by the CIC, i.e. direct to the client or to the CIC. If the QRC cannot locate a record, the request will be forwarded to the National Archives.

4.47 MARRIAGE AFTER VISA ISSUANCE (See also IE 2.47)

1) When permanent residents who have just been landed inform immigration officers that they married after immigrant visas had been issued to them as single persons, the officers must assume the truthfulness of the voluntary statements and proceed as though the permanent residents are married. The officer must therefore report the resident under A27(1)(e), regardless of whether or not the resident has documentary proof of the marriage. If the nondeclaration of marriage would not have affected the landing of the permanent resident as in the cases of Convention Refugees, members of the Designated Classes or fiancés, a report need not be written.

2) a) Normal enforcement action shall be taken in cases involving permanent residents. Officers must bear in mind that persons remain permanent residents until a deportation order has been made against them and the order has not been quashed or stayed by the Immigration Appeal Board.

These persons therefore have the right to submit an undertaking on behalf of their alleged spouse, which officers must forward to the appropriate visa post. Posts must then process the visa application of the spouse.

b) If an Inquiry is not directed in the sponsor's case, the spouse may be issued a visa after normal processing, provided all usual criteria are met. If an Inquiry is directed, processing of the spouse's application should be held in abeyance until the status of the sponsor is finally determined.

4.48 CANADIAN CITIZENSHIP ACT - NO OBJECTION TO DEEM LANDING

1) Paragraph 2(2)(b) of the Citizenship Act allows Landing to be Deemed in order to grant citizenship in very exceptional situations. This procedure is available to persons who have resided in Canada for many years usually since infancy under the assumption that they were Canadian citizens because of their parent's citizenship. Also eligible under this provision are persons married to Canadian citizens, for example war brides.

2) The onus is on the individual to apply to the Citizenship Branch. The CIC's main involvement in the grant of Citizenship process is:

a) referral to the Citizenship Branch and/or

b) response to requests from Citizenship for information on the individual's status and any adverse or enforcement action which exists. This is referred to by Citizenship as a "no objection to deem landing process".

3) When a person reports to a CIC, an A27(2) report must be written and facts obtained to determine the length and circumstances of illegal residency. If it appears the client has a claim, an immediate referral should be made to the Citizenship Branch to submit an application. A Minister's Permit should be issued to the individual valid for a period of one year. Cost Recovery fees are applicable. A Minister's Permit should not be issued immediately if there is some doubt about the person's eligibility or claim.

4) The case should be followed with the Citizenship Branch to ensure the person is eligible and that citizenship is granted.

5) If citizenship is not granted the case will have to be concluded at the CIC by either an Order-in-Council waiver or other appropriate action, for instance, enforcement or eventual landing under A39(2)dependent on the circusmtances of each case.

4.49 RE-DETERMINATION OF STATUS OF WOULD-BE RETURNING RESIDENTS ACCEPTING ENTRY AS VISITORS

1) a) If a person who sought to be allowed to come into Canada as a returning resident but accepted entry as a visitor (see IE 2.51 5)) subsequently appears at an inland CIC seeking to have his status adjusted to that of returning resident, he should be interviewed to determine whether he abandoned Canada as his place of permanent residence. Such interviews shall be conducted by the CIC Manager, or where this is not practicable, by a Senior Immigration Officer. The decision whether to override the official visitor admission and acknowledge that the person is a permanent resident will, in all cases, be made by the manager. If the person concerned can satisfy that officer that he did not intend to abandon Canada as his place of residence, he may be allowed to remain in Canada as a permanent resident (see 2) below). His visitor's status, if still valid, remains unaffected by a negative decision concerning permanent resident status.

b) Before reaching a decision concerning the retention of permanent resident status, officers conducting "re-determination" interviews would be well advised to contact the port of entry where it was determined that the person concerned had lost his status.

2) If the CIC Manager is satisfied that the person seeking a redetermination did not intend to abandon Canada, he/she should be given a letter confirming that on the date of the interview, it has been determined by an immigration officer that he/she has retained his/her status as a permanent resident of Canada.

3) If the CIC Manager is not satisfied that the person is a permanent resident, he/she shall inform him/her of the reason for his/her arriving at this conclusion and shall tell him/her that a final determination can be made only by an adjudicator at an inquiry. It should be explained that inquiries are held only where a person overstays his/her status or otherwise contravenes the Act and that by overstaying, he/she risks exposing himself/herself to possible deportation should the adjudicator not rule in his/her favour. A CIC dater stamp should be entered in the person's passport with the notation "IE 4.49" and the initials of the interviewing officer.

4.50 VOLUNTARY SURRENDER OF CIIC's or CIIR's (FORMS IMM 1000)

1) From time to time, permanent residents who leave Canada with the intention of establishing permanent residence elsewhere surrender their landing records or otherwise make their intentions known to Commission officials. It should be kept in mind that by surrendering the documentary evidence of his/her landing, a person has not automatically ceased to be a permanent resident. Permanent resident status is lost only if a deportation order is made against the person concerned, where an adjudicator rules at an inquiry

that he/she has ceased to be a permanent resident, or as the result of a decision by the Immigration Appeal Board which reverses a favourable ruling by an Adjudicator.

2) Voluntarily surrendered form IMM. 1000 should be forwarded to the QRC, accompanied by a completed IMM. 1342 giving any stated reason for, and method of surrender, so that the official record of landing can be appropriately notated. This form includes a declaration to the effect that the person concerned intends to abandon Canada as his/her place of permanent residence. Each family member who is old enough to form his/her own intentions concerning the maintenance of permanent residence in Canada should be asked to sign such a declaration.

4.51 ON...SPARES

IMMIGRATION RECORDS PRIOR TO 1919

(Ref. at IE 4.46 2)b)i) NOTE)

The Canada Employment and Immigration Commission maintains immigration records of arrival for the period 1919 to the present. Records of admission prior to 1919 are maintained by the Public Archives of Canada.

If you wish to search an immigration record for an admission prior to 1919 please contact the Public Archives at the following address:

Public Archives of Canada
Manuscript Division
395 Wellington Street
Ottawa, Ontario
K1A 0N3

It is essential that you provide the following information to Public Archives in order that they may conduct a proper search.

1. Name at the time of entry to Canada.
2. Date of birth or approximate age at the time of entry.
3. The name of the vessel (ship) on which the person travelled to Canada.
4. The date of arrival in Canada.
5. The port of arrival in Canada.
6. The names, dates of birth (or approximate age at the time of entry) of accompanying family members.

Employment and Immigration Canada | Emploi et Immigration Canada

VERIFICATION OF ADMISSION / *VERIFICATION DE L'ADMISSION*

IE 4
APP. "B"

PART A - *PARTIE A* CLIENT DETAILS - *RENSEIGNEMENTS CONCERNANT LE CLIENT*

Surname (on admission) - *Nom de famille (à l'entrée)* | Given Names - *Prénom(s)* | Sex - *Sexe* ☐ Male - *Homme* ☐ Female - *Femme*

Date of Birth - *Date de naissance* D - *J* M Y - *A* | Place and Country of Birth - *Lieu et pays de naissance*

Surname (at present) - *Nom de famille (actuel)* | Given Names - *Prénom(s)* | Home Telephone No. - *No. téléphone à la maison* Area Code - *Ind. rég.*

Address - *Adresse* | Apt. - *App.* | Telephone No. at Work - *No. téléphone au travail* Area Code - *Ind. rég.*

City - *Ville* | Province | Postal Code - *Code postal*

Accompanying Family Members - *Membres de la famille qui ont accompagné l'interessé*

Names - *Noms*	Relationship - *Lien de parenté*

Date of Admission for Permanent Residence - *Date d'admission aux fins de la résidence permanente* D - *J* M Y - *A*

Canadian Port of Entry - *Point d'entrée au Canada*

Name of Vessel - *Nom du navire*

PART B - *PARTIE B* OFFICE USE ONLY - *BUREAU SEULEMENT*

COST RECOVERY - *ÉTAT DE RECOUVREMENT DES FRAIS*

☐ Fee Paid - *Droit acquitté* Receipt No. - *N^O du reçu* _____

☐ Exempt - *Dispensé(e)* Reason - *Raison* _____

CERTIFICATION REQUIRED - NO DOCUMENTS ON FILE - *ATTESTATION REQUISE - AUCUN DOCUMENT AU DOSSIER*

☐ No landing record - *Aucune fiche relative au droit d'établissement*
☐ No Minister's Consent - *Aucune autorisation du Ministre*
☐ No visitor record - *Aucune fiche du visiteur*
☐ No student / employment authorization - *Aucun permis de travail ou permis de séjour pour étudiant*
☐ Certificate 19(1)(c) Immigration Act - *Attestation - L19(1)(c)*
☐ Certificate 19(2)(a) Immigration Act - *Attestation - L19(2)(a)*

DOCUMENTS REQUIRED - *DOCUMENTS EXIGÉS*

☐ IMM 56 Confirmation of Departure - *Confirmation du départ*
☐ IMM 1000 Immigrant Visa and Record of Landing - *Visa d'immigrant et fiche relative au droit*
☐ IMM 1097 Visitor Record - *Fiche du visiteur*
☐ IMM 1102 Employment Authorization - *Permis de travail*
☐ IMM 1208 Student Authorization - *Permis de séjour pour étudiant*
☐ IMM 1214 Exclusion Order - *Mesure d'exclusion*
☐ IMM 1215 Deportation Order - *Mesure d'expulsion*
☐ IMM 1220 Departure Notice - *Avis d'interdiction de séjour*
☐ IMM 1263 Minister's Permit - *Permis pour entrer au Canada ou y demeurer*
☐ IMM 1264 Extension of Minister's Permit - *Prorogation de la durée de la validité d'un permis*
☐ IMM 1203 Minister's Consent Pursuant to Sec. 55 of the Immigration Act - *Autorisation du Ministre en application de l'article 55 de la Loi sur l'immigration*

TO BE COMPLETED WHEN QUERY SUBMITTED BY MAIL - *À REMPLIR LORSQUE LA DEMANDE EST ENVOYÉE PAR LA POSTE*

Foss queried - *SSOBL interrogé* ☐ Yes - *Oui* ☐ No - *Non* | I. D. Verified - *Ident. vérifée* ☐ Yes - *Oui* ☐ No - *Non* | Micro. No. - *N^O du micro.*

Mail verification of admission to: - *Envoyer par la poste la vérification de l'admission* ☐ Client - *Au client* ☐ C. I. C. - *Au C. I. C.*

Office - *Bureau*

C. I. C. File - *N^O de dossier du C. I. C.*

NHQ File - *N^O de dossier de l'AC*

Date Submitted - *Présentée le*

QRC Respondent - *Répondant au CDR*

Date Returned - *Renvoyée le*

Remarks - *Observations*

Name of Officer - *Nom de l'agent*

Canada

IMM 5009 AD - P (05 - 89) B

02-89

QRC - *CD*

Employment and Immigration Canada / Emploi et Immigration Canada

IE 4
APP. "C"

APPLICATION TO CHANGE OR EXTEND MY VISITOR STATUS IN CANADA

NOTE: THE REQUIRED FEES ACCOMPANYING THIS APPLICATION DO NOT GUARANTEE ITS ACCEPTANCE

FOR OFFICIAL USE ONLY
CANADA EMPLOYMENT & IMMIGRATION COMMISSION DECISION

APPROVED ☐ REFUSED ☐

CIC FILE NUMBER

I AM APPLYING TO (PLEASE CHECK ONE OF THE FOLLOWING:)

☐ STUDY COMPLETE SECTION A BELOW ☐ WORK COMPLETE SECTION B BELOW ☐ EXTEND MY VISIT COMPLETE SECTION C BELOW

PROCESSSING FEE PAID	RECEIPT NO.	☐ FOSS INPUT REQUIRED
NCB #	FEE EXEMPTION CODE	CLIENT I.D.

MY FAMILY NAME IS | MY FIRST NAME IS | MY MIDDLE NAME IS | MY SEX IS ☐ Male ☐ Female

MY DATE OF BIRTH WAS (Day / Month / Year) | MY PLACE OF BIRTH WAS (City or town / Country) | I AM A CITIZEN OF

MY MAILING ADDRESS IN CANADA IS (No. and street / City or town / Province / Postal code) | TELEPHONE NO

MY ADDRESS OUTSIDE OF CANADA IS

MY PRESENT MARITAL STATUS IS ("X " THE APPROPRIATE BLOCK) NOTE : ANY CHANGE IN MARITAL STATUS MUST BE REPORTED TO THE OFFICE HANDLING YOUR APPLICATION

☐ Single (never married) ☐ Engaged ☐ Married ☐ Widowed ☐ Separated ☐ Divorced

PARTICULARS OF MY SPOUSE AND CHILDREN WHO ARE WITH ME IN CANADA (IF ANY) ARE

FAMILY NAME	GIVEN NAMES	RELATIONSHIP	DATE OF BIRTH Day Month Year	COUNTRY OF BIRTH	CITIZENSHIP

SECTION - A PLEASE COMPLETE THIS SECTION ONLY IF YOU APPLYING FOR AN EXTENSION OF YOUR STUDENT AUTHORIZATION

NAME AND ADDRESS OF THE SCHOOL YOU WISH TO ATTEND:

.....

.....

.....

LEVEL OF STUDY:(PLS. CHECK ONE)

☐ RESIDENTS & INTERNS ☐ PRIMARY
☐ UNIVERSITY - BACHELOR ☐ SECONDARY
☐ UNIVERSITY - MASTERS ☐ POST SECONDARY
☐ UNIVERSITY - DOCTORATE ☐ NON - UNIVERSITY CERT. OR DIPLOMA
☐ OTHER STUDIES

WHAT IS THE SOURCE OF YOUR MONEY ?

HOW MUCH AND HOW OFTEN DO YOU RECEIVE YOUR MONEY ?

$ ..... EVERY .....

IF YOU ARE UNDER THE AGE OF 17 YEARS, DO YOU HAVE A LEGAL GUARDIAN ?

☐ YES ☐ NO

SECTION - B PLEASE COMPLETE THIS SECTION ONLY IF YOU ARE APPLYING FOR AN EMPLOYMENT AUTHORIZATION

I AM APPLYING FOR AUTORISATION TO ENGAGE IN EMPLOYMENT AS INDICATED BELOW:

☐ SPECIFIC EMPLOYMENT :
☐ OPEN EMPLOYMENT :
☐ REFUGEE CLAIMANT :
☐ SPOUSE OF STUDENT AUTHORIZATION HOLDER :
☐ OTHER : (PLS. PROVIDE DETAILS)

.....

.....

IF APPLYING FOR SPECIFIC EMPLOYMENT PLEASE PROVIDE THE FOLLOWING INFORMATION :

COMPANY NAME | ADDRESS | TELEPHONE NO

JOB TITLE | IS THIS AN EXTENSION OF AN EXISTING EMPLOYMENT AUTHORIZATION ? ☐ YES ☐ NO

SECTION - C PLEASE COMPLETE THIS SECTION ONLY IF YOU ARE APPLYING FOR AN EXTENSION OF YOUR VISITOR STATUS

I AM APLYING TO EXTEND MY STAY IN CANADA UNTIL (DATE)

PURPOSE OF EXTENDING MY STAY IN CANADA IS : (PLS. PROVIDE DETAILS BELOW)

.....

.....

.....

.....

I HAVE THE FOLLOWING FUNDS AVAILABLE TO ME

CASH ☐ AMOUNT $ _____ CREDIT CARDS ☐ LIMIT $ _____ TRAVELLERS CHEQUES ☐ AMOUNT $ _____

MY OCCUPATION IN MY HOME COUNTRY IS | MY EMPLOYER IN MY HOME COUNTRY IS (NAME OF COMPANY OR INDIVIDUAL

I HAVE BEEN EMPLOYED THERE SINCE (DATE) | I HAVE TO RETURN TO WORK BY (DATE)

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION

Canada

PASSPORT DETAILS FOR EACH PERSON LISTED ON REVERSE OF THIS FORM:

	Passport No.	Country of Issue	Date Issued	Valid Until
1				
2				
3				
4				

HAVE YOU OR ANYONE ELSE INCLUDED IN THIS APPLICATION (PLEASE CHECK "YES" OR "NO") ☐

		YES	NO
1.	Suffered from any serious mental or physical disorder ?	☐	☐
2.	Suffered from any communicable or chronic disease ?	☐	☐
3.	Been convicted or have any charges outstanding on a criminal offense in any country ?	☐	☐
4.	Been deported or excluded from any country ?	☐	☐
5.	Applied for any change of your status or extension of your stay at any other Immigration Centre in Canada ?	☐	☐

If you have answered "Yes" to any of the above, please provide details below :

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

I WAS FIRST ADMITTED TO CANADA ON	D M Y	AT (PORT OF ENTRY)	MY LAST ENTRY INTO CANADA WAS ON	D M Y

UNDER THESE TERMS AND CONDITIONS AS LISTED IN MY LANDING DOCUMENT(S) (IMM 1097, IMM 1102, IMM 1208 OR IMM 1442)

VISITOR
- May not engage in employment without written authorization from an Immigration officer.
- May not attend any school or take any academic or training course without written authorization from an Immigration Officer.
- Must leave Canada by. .....

STUDENT
- May not attend a course of instruction except at .....
- May not engage in employment without written authorization from an Immigration Officer.
- Must leave Canada by .....

EMPLOYMENT
- May not engage in employment for any employer other than .....
or in any occupation except as .....
.....
- May not attend any university, college or other learning institution or take any academic, professional or vocational training course without written authorization from an Immigration Officer.
- Must leave Canada by. .....

OTHER

AND I HEREBY MAKE APPLICATION TO ("X" THE APPROPRIATE BLOCK) ☐ PROLONG MY STAY IN CANADA ☐ VARY THE ABOVE TERMS AND CONDITIONS

FOR THE FOLLOWING REASONS (USE SEPARATE SHEET IF NECESSARY) :

DECLARATION: I DECLARE THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS TRUTHFUL, COMPLETE AND CORRECT, AND I MAKE THIS SOLEMN DECLARATION CONSCIENTIOUSLY BELIEVING IT TO BE TRUE AND KNOWING IT IS OF THE SAME FORCE AND EFFECT AS IF MADE UNDER OATH.

SIGNATURE _____ DATE _____

IE 4 APP. "D"

Employment and Immigration Canada / Emploi et Immigration Canada

REQUEST TO AMEND IMMIGRATION RECORD OF LANDING
DEMANDE DE MODIFICATION DE LA FICHE RELATIVE AU DROIT D'ÉTABLISSEMENT

NHQ USE ONLY – *RÉSERVÉ À L'ADMINISTRATION CENTRALE*

(01) 3 (03) (04)

ORIGINAL IMM 1000 SERIAL NUMBER / *NUMÉRO DE SÉRIE DE L'IMM 1000 ORIGINALE* (13) A 39209

TO / *POUR*	MANAGER CANADA IMMIGRATION CENTRE / *LE DIRECTEUR/LA DIRECTRICE CENTRE D'IMMIGRATION CANADA*	C.I.C. FILE NO / *N° DU DOSSIER DU CIC*	N.H.Q. FILE NO. (IF KNOWN) / *N° DU DOSSIER AC (SI CONNU)*
CHIEF TRANSPORTATION PROGRAMS SETTLEMENT BRANCH, IMMIGRATION N.H.Q. / *LE CHEF PROGRAMMES DE TRANSPORT DIRECTION DE L'ÉTABLISSEMENT IMMIGRATION AC*	FROM / *ORIGINE*		

ATTACHED SUPPORTING DOCUMENTS (CHECK) / *DOCUMENTS À L'APPUI CI-JOINTS (COCHER)*

- ☑ STATUTORY DECLARATION / *DÉCLARATION STATUTAIRE*
- ☐ MARRIAGE/DIVORCE CERTIFICATE / *CERT. DE MARIAGE/DIVORCE*
- ☐ BIRTH CERTIFICATE / *CERT. DE NAISSANCE*
- ☐ PASSPORT / *PASSEPORT*
- ☐ OTHER (SPECIFY IN REMARKS) / *AUTRES (INDIQUER L'OBSERVATIONS)*

PART "A" SECTIONS 1, 2, 3, 7, 8, 12 AND 13 WILL BE COMPLETED IN ALL REQUESTS. COMPLETE A AND B ONLY WHERE CORRECTION REQUIRED
LES CASES, 1, 2, 3, 7, 8, 12 ET 13 DE LA PARTIE A SERONT REMPLIES DANS TOUS LES CAS. REMPLIR A ET B SEULEMENT SI MODIFICATIONS NÉCESSAIRES

PART – A – *PARTIE*		PART – B – *PARTIE*
PRESENT INFORMATION CONTAINED IN RECORDS ON IMM 1000 / *RENSEIGNEMENTS FIGURANT DÉJÀ SUR IMM 1000*	MICRO NUMBER OF IMM 1000 / *NUMÉRO DE MICROFILM DE L'IMM 1000*	RECORDS TO BE CORRECTED TO READ / *MODIFICATIONS À APPORTER À LA FICHE RELATIVE AU DROIT D'ÉTABLISSEMENT*
1 SURNAME / *NOM DE FAMILLE* (25)		1 SURNAME / *NOM DE FAMILLE*
2 GIVEN NAME(S) / *PRÉNOM(S)*		2 GIVEN NAME(S) / *PRÉNOM(S)*
3 DATE OF BIRTH / *DATE DE NAISSANCE* D-J M Y-A 1 9		3 DATE OF BIRTH / *DATE DE NAISSANCE* (68) D-J M Y-A 1 9
4 PLACE OF BIRTH / *LIEU DE NAISSANCE*		4 PLACE OF BIRTH / *LIEU DE NAISSANCE*
5 COUNTRY OF BIRTH / *PAYS DE NAISSANCE*		5 COUNTRY OF BIRTH / *PAYS DE NAISSANCE*
6 NAME FLAG / *INDICATEUR DU NOM*		6 NAME FLAG / *INDICATEUR DU NOM*
7 CITIZEN OF / *CITOYEN DE* (80)		7 CITIZEN OF / *CITOYEN DE*
8 SEX / *SEXE* 1 MALE / *HOMME* 2 FEMALE / *FEMME* (83)		8 SEX / *SEXE* 1 MALE / *HOMME* 2 FEMALE / *FEMME*
9 MARITAL STATUS / *ÉTAT MATRIMONIAL* ☐ SINGLE / *CÉLIBATAIRE* ☐ MARRIED / *MARIÉ(E)* ☐ WIDOWED / *VEUF (VEUVE)* ☐ DIVORCED / *DIVORCÉ(E)* ☐ SEPARATED / *SÉPARÉ(E)*		9 MARITAL STATUS / *ÉTAT MATRIMONIAL* ☐ SINGLE / *CÉLIBATAIRE* ☐ MARRIED / *MARIÉ(E)* ☐ WIDOWED / *VEUF (VEUVE)* ☐ DIVORCED / *DIVORCÉ(E)* ☐ SEPARATED / *SÉPARÉ(E)*
10 ACCOMPANYING FAMILY MEMBERS / *MEMBRES DE LA FAMILLE QUI ACCOMPAGNENT*		10 ACCOMPANYING FAMILY MEMBERS / *MEMBRES DE LA FAMILLE QUI ACCOMPAGNENT*

NAME / *NOM*	DATE OF BIRTH / *DATE DE NAISSANCE*	RELATIONSHIP / *LIEN DE PARENTÉ*	NAME / *NOM*	DATE OF BIRTH / *DATE DE NAISSANCE*	RELATIONSHIP / *LIEN DE PARENTÉ*

11 DATE OF ORIGINAL ENTRY / *DATE DE L'ENTRÉE INITIALE* D-J M Y-A		11 DATE OF ORIGINAL ENTRY / *DATE DE L'ENTRÉE INITIALE* D-J M Y-A
12 REQUESTEE ADDRESS / *ADRESSE DU REQUÉRANT*		
NHQ USE ONLY / *RÉSERVÉ À L'ADMINISTRATION CENTRALE* DATE (148) D-J M Y-A		POSTAL CODE / *CODE POSTAL*
13 LANDED ON / *DROIT D'ÉTABLISSEMENT OBTENU LE* (177) D-J M Y-A		13 LANDED ON / *DROIT D'ÉTABLISSEMENT OBTENU LE* D-J M Y-A

REMARKS / *OBSERVATIONS*

Type of case / *Genre de cas* (183)

14 FEE PAID / *DROIT ACQUITTÉ* ☐	I CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT / *JE CERTIFIE QUE LES RENSEIGNEMENTS CI-DESSUS SONT EXACTS ET VÉRIDIQUES* — SIGNATURE — DATE
15 FEE EXEMPT / *DISPENSE DU DROIT* ☐	SIGNATURE OF IMMIGRATION OFFICER / *SIGNATURE DE L'AGENT D'IMMIGRATION* — DATE

PART C – TO BE COMPLETED ONLY AT N.H.Q. / *PARTIE C – DOIT ÊTRE COMPLÉTÉE PAR AC SEULEMENT*

DATE AUTHORIZED (DATE STAMP) / *DATE AUTORISÉE (DATE ÉTAMPÉE)*	DATE AMENDED (DATE STAMP) / *DATE DE MODIFICATION (DATE ÉTAMPÉE)*
SIGNATURE OF SETTLEMENT OFFICER / *SIGNATURE DE L'AGENT DE L'ÉTABLISSEMENT*	SIGNATURE OF FOSS OFFICER / *SIGNATURE DE L'AGENT DU SSOBL*

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CHAPTER 8

REFUGEES - PROTECTION IN CANADA

AUTHORITY

Act: 2(1), 2(2), 3(g), 4(2)(b), 45, 46, 47, 48, 55, 70, 71 and 72.

Regulation: R40

1951 Convention: Sections C to F of Article "1" and Articles 32 and 33.

GENERAL INTENT

8.01 CANADA'S COMMITMENT

1) For the first time in its history, Canada's obligations with respect to the displaced and persecuted persons seeking refugee status from within Canada, as well as those already recognized as Convention refugees, are firmly
* entrenched in the Immigration Act.

2) To fulfill Canada's obligations to protect refugees within Canada in accordance with the provisions of the 1951 Convention Relating to the Status of Refugees, a definition of a "Convention refugee" is provided, and a Refugee Status Advisory Committee is established to advise the Minister on whether or not a person claiming refugee status is a Convention refugee. Once found to be a Convention refugee, the person, while lawfully in Canada, has a right to remain except if he is a person as described in A4(2)(b). A55 provides further assurance that Convention refugees may only be removed from Canada to where their life or freedom would be threatened, for very serious reasons, i.e., because they are considered to be security risks or they have committed serious crimes.

3) Under A70 and A71, refugee claimants retain access to the Immigration Appeal Board to which they may apply for a redetermination of their claims if they have been informed by the Minister that he does not consider them to be Convention refugees. Under A72, Convention refugees, against whom a removal order is made, may appeal to the IAB.

4) In summary, Canada's legislation and policy with regard to refugees is:

   a) to ensure that persons claiming to be Convention refugees in Canada are given every opportunity and assistance in advancing that claim; and

   b) are accorded rights, benefits and protection in keeping with both the letter and the spirit of the Convention and Protocol.

8.02 INTERNATIONAL REFUGEE AGREEMENTS

On September 4, 1969, the Government of Canada acceded to two major international agreements:

1) The 1951 Convention Relating to the Status of Refugees

The Convention, adopted by the U.N. in July, 1951, is a major international instrument for the protection of refugees. It establishes a common definition of the term "refugee", lays down specific standards for the treatment of refugees in the country of sanctuary or residence, and contains safeguards against their expulsion.

2) The 1967 Protocol to the Convention Relating to the Status of Refugees

The Protocol to the Convention adopted by the U.N. in 1967 extends the definition of refugees contained in the Convention. Because the Convention of 1951 was designed mainly to cover persons displaced as a result of World War II, its definition of refugee contains a dateline limiting its scope to persons made refugees "as a result of events occurring before January 1, 1951". In addition, signatories could opt to limit the provisions of the Convention to Europe.

8.03 - 8.05 SPARES

GUIDELINES

8.06 DETERMINATION OF "ELIGIBILITY" FOR REFUGEE STATUS

1) The following procedures are for the use of senior immigration officers in Canada to assist them in interviewing persons claiming to be Convention refugees. These procedures will be used to develop the information required by the Refugee Status Advisory Committee (RSAC). The immigration officer will not make a determination or recommendation.

2) These procedures are intended as a guide only as they reflect interpretations (few of which are applicable to all cases or under all circumstances) made by other signatory countries and the legal adviser to the UNHCR. They may, however, shed some light on the many factors which must be considered in dealing with claimants to refugee status. In particular, they should assist officers in developing an interview technique most likely to produce the information required to make a determination of eligibility or ineligibility for refugee status.

8.07 REFUGEE DEFINITION

1) The key to determining eligibility for refugee status is the definition of refugee contained in A2. It follows that a thorough understanding of every part of the definition is essential if a just and impartial determination of eligibility is to be made. Outlined hereunder is a breakdown of the definition with interpretations.

   a) "By reason of a well-founded fear of persecution" ... This is the most difficult part of the refugee definition to interpret and the source of most appeal decisions in various signatory states. "Well-founded fear" is normally interpreted to mean that the person has either actually been the victim of persecution or can show good reasons why he fears persecution. As "fear" is a subjective feeling, "well-founded" provides the objective element and imposes an obligation on the applicant to provide such indications as will enable the determining authority to decide whether the applicant has good grounds to fear persecution. "Persecution", in the context of the refugee definition, has not been, and is unlikely to ever be, defined. This is not an oversight on the part of the drafters of the Convention but simply a recognition that persecution will vary according to the feelings and opinions of the individual and is therefore subject to infinite variation. "Persecution" must be related to the grounds outlined in the definition, i.e., race, religion, nationality, membership in a particular social group, or political opinion:

      i) "Race" denotes not only major ethnic groups such as black, white, European, African, etc., but also embraces the social concept, e.g., Jews, Gypsies, a particular tribe or minority, racial or ethnic.

ii) "Religion and Nationality" are generally self-explanatory and may include, in the case of nationality, ethnic origin and/or race. In * a few cases, e.g., Iranian Baha'is - see paragraph 2) of Appendix "D" to IS 3, persecution may be on any of these grounds, depending on how they are perceived by the government of the country concerned.

iii) "Particular Social Group" was added to the refugee definition at the suggestion of the Swedish representation. It is intended to include such groups as the nobility, capitalists, land owners, civil servants, businessmen, farmers, members of trade unions, social clubs or societies or any other group who may be persecuted solely on the grounds of such memberships.

iv) "Political Opinion", in its widest context, embraces anyone who is persecuted on grounds that they are alleged or known to hold opinions contrary to, or critical of, the government or ruling party. The Convention seeks to protect persons who would be subject to political persecution resulting from circumstances beyond their control (peacefully working in support of a political party or cause). While recognizing that the struggle for a certain political conviction is a fundamental right, it is not intended to protect any person who commits a crime or uses violence beyond that necessary for the defence of his life. Terrorists and ordinary criminals fleeing prosecution are therefore not protected.

b) i) The degree to which one's liberty or rights (as outlined in the Universal Declaration of Human Rights) are restricted is, in most cases, more indicative of persecution than the particular right which is curtailed. For example, the right to work, to just and favourable conditions of work, etc., outlined in Article 23 of the Human Rights Declaration, while laudable objectives, may well be beyond the power or the ability of the government to achieve. Failure to grant every citizen these rights would therefore scarcely constitute persecution.

ii) On the other hand, flagrant violation of some basic human rights, such as denial of a fair and impartial trial, or other rights, particularly where these are combined with unduly severe punishment or penalty, are normally considered to constitute persecution.

c) Some of the factors which may always be considered as leading to persecution if perpetrated on the grounds mentioned in the refugee definition are:

i) Slavery or servitude without compensation or at a minimal level totally inconsistent with the person's qualifications;

ii) Torture and cruel, inhuman or degrading treatment;

iii) Threat to life, liberty and security of person;

iv) Arbitrary arrest, detention or exile, except during emergencies where such measures are considered necessary to safeguard the safety and rights of others and to maintain order;

v) Continued harassment, detention or arrests of anyone because of known or suspected political opinions, race, religion or membership in a particular social group.

All of the above will normally be perpetrated by the government or police authorities of the country in question. It will still constitute persecution, however, if the perpetrators are other nationals, whose actions are tolerated by the authorities in such a manner as to leave the person concerned virtually unprotected.

d) Some other factors which may constitute persecution, depending on the individual or circumstances, and which merit careful consideration are:

i) Exile from one's country or to a remote area within that country for reasons contained in the refugee definition;

ii) "Member of a family" may or may not be sufficient reason to assume the person concerned will be subject to persecution. While this is likely in the case of relatives of high ranking officials or members of a former government, there are also cases where some members of a family may be outspoken supporters of the government and other members persecuted because they are considered political adversaries.

e) Finally, only persecution which is specific and personal is likely to make a person eligible for refugee status. Vague generalized statements which relate to other persons or the fact that the government is oppressive, etc., will only indicate a possibility of persecution if combined with specific examples of how this affected the claimant.

f) <u>"For reasons of race, religion, nationality, membership in a particular social group, or political opinion"...</u> Persecution must be feared for one of the reasons stated in the definition. Whether the person concerned is a member of a racial, religious or national minority that is known to be persecuted will, of course, be relatively easy to determine. In the case of a social group or political opinion, it is necessary to determine whether the person is considered a political adversary because of such membership and thus, subject to persecution. It should be noted that several weak grounds may cumulatively make the fear of persecution well-founded.

g) ..."is outside the country of his nationality...or...not having a county of nationality...outside the country of his former habitual residence"...It follows from the word "is" that the person need not have left his country for the reasons mentioned but he must be outside the country because of these reasons. If the person did not leave because of fear of persecution, then it is a question of establishing what has happened since he left which would make his fear of persecution well-founded. Examples of the latter could be changes in government in the country concerned, imposition of new laws or regulations which could constitute persecution of a minority or, in the case of an individual outside his country, association with emigré circles considered hostile by authorities in his country of origin. An important factor to note is that a person possessing a nationality must fear persecution in the country of his nationality, and a stateless person, in the country of his former habitual residence. The term "former habitual residence" is interpreted to mean the country in which the person resided and in which he suffered persecution, or fears he would suffer persecution, if he returned to it.

h) ..."is unable or, by reason of such fear, is unwilling"..."Unable" refers primarily to stateless refugees who have been refused passports or other protection by their own government. "Unwilling" refers to refugees who refuse to accept the protection of the country of their nationality because of a well-founded fear of persecution.

2) From the foregoing, it will be seen that establishing whether or not there is well-founded fear of persecution for the specific reasons mentioned in the definition is of paramount importance. Leading questions should be avoided and any claim to persecution by an applicant should be followed by questions designed to clarify such claim. The following factors may provide some indication of whether the applicant has a well-founded fear of persecution:

a) Membership in a minority group - social, political, ethnic, national or religious;

b) Whether this group was persecuted and, if so, for what reasons;

c) History of incidents indicating persecution of the applicant or his close relatives;

d) His mode of exit - legal, illegal, at the risk of injury or life or otherwise;

e) Date of departure from home country;

f) Previous opportunities to apply for refugee status (particularly in other * signatory states listed in Appendix "G" to IS 3). The decision of the authorities in that state with regard to refugee status;

g) The stringency of exit controls imposed by the applicant's country of origin;

h) The political beliefs and/or activities of the applicant while in his country, whether or not he was ever punished for political as opposed to other crimes;

i) Whether the applicant ever received punishment for a non-political offence which appeared inappropriate, i.e., unduly severe, to the offence committed;

j) Reasons for wishing to stay in Canada (do they appear to indicate fear or simply a desire for improvement of economic and/or social status);

k) His experience in obtaining education or training, employment, housing and social benefits, as compared with the experiences of his fellow nationals and members of his community.

8.08 RELATED TERMS

There are many terms which are erroneously considered synonymous with "refugee" such as "stateless person", "displaced person", "asylum seeker", "defector", etc.. Any of these persons may or may not also be refugees. The key is whether the reason for statelessness, displacement, defection, or seeking asylum is a well-founded fear of persecution on the grounds mentioned in the refugee definition. It should be noted that any of the actions implied in the above terms may also be taken for reasons totally unrelated to persecution, e.g., a person may be displaced because of war or natural disasters; a person may defect for reasons of social and/or economic betterment or simply because he disagrees with the laws or policies of his country; a person may, in some cases, become stateless by renouncing his citizenship for various reasons; a person may seek asylum from the consequences of a criminal act.

8.09 PROBLEM AREAS

1) The Federal Court of Appeal in the case of Shane Gregory Brannson (A-161-80) held that under A71(1), the Immigration Appeal Board "must base its decision solely on the documents mentioned in A70(2). That subsection mentions only the transcript of the examination under oath of the applicant and the declaration of the applicant". The Court observed that nowhere does the statute permit the Immigration Appeal Board to have regard to other extraneous evidence such as the oral testimony of witnesses. Following the view of the Court in the Brannson case, examinations under oath should be limited to an examination of the claimant.

2) Another problem area relates to fear of prosecution as opposed to fear of persecution. Deserting seamen often claim they will suffer persecution on return to their country because they deserted their ship. The relevant question in these cases is whether the applicant will be treated any more harshly than any other deserting seaman from that country. Persecution implies discriminatory or special treatment and, in the case of a refugee, on grounds of his race, religion, nationality, membership in a particular social group, or political opinion. The same principle can be applied to other types of applicants for refugee status.

8.10 NOTATION ON PASSPORT OF REFUGEE CLAIMANT IN CANADA

CIC officers are NOT to enter the notation "Refugee Claimant" in the passport of a visitor claiming such status in Canada. Where it is determined that the claimant is not a Convention Refugee, he could be the subject of harassment or
* persecution on return to his home country due to the endorsement (see also IC 3.34).

8.11 EMPLOYMENT AUTHORIZATIONS FOR REFUGEE CLAIMANTS PURSUANT TO R19(4)(k)(ii) (See also IS 15.06)

1) Procedures are provided in 8.19 2) on the conditions under which an employment authorization may be issued to a person claiming to be a refugee in accordance with A-45(1).

2) In order to uphold our commitment to protect Convention refugees legally on our territory, it follows that we must make it possible for claimants to refugee status to await the outcome of their claims without undue physical or economic hardship. Claimants must therefore be given reasonable opportunity to maintain themselves through employment if they are not self sustaining and do not have recourse to other sources of support. Conversely, we must ensure that the availability of employment authorizations does not, in itself, become an inducement for claims to refugee status. In a word, refugee claimants do not have a right to receive an employment authorization nor other assistance but we must ensure that authorizations are given if the denial of these will result in indigence and pressure for the withdrawal of claims.

8.12 MEDICAL EXAMINATION OF REFUGEE CLAIMANTS (See also IE 8.23)

1) In view of backlogs which have developed in recent years, the increasing number of medically unexamined claimants residing in Canada could pose a potential threat to the Canadian public health. Health and Welfare Canada is concerned over the presence in Canada of medically unexamined persons and are prepared to provide for their medicals. Those with their own resources are, of course, expected to pay for their examinations, but the costs of the medicals of indigent claimants will be borne by Health and Welfare Canada.

2) All provides for the medical examination of every immigrant and every visitor of a prescribed class. While refugee claimants under A45(1) have no status, they can be considered to be "seeking landing" and therefore, are "immigrants" as defined in A2. A8(2) also presumes every person seeking to come into Canada to be an immigrant until he satisfies the Immigration officer or Adjudicator that he is not.

3) Under authority from the Minister, Immigration officers will therefore refer for medical examination, all refugee claimants on arrival in Canada, as well as those already in Canada. (See IE 8.23 for procedures).

8.13 SPARE

PROCEDURES

8.14 PERSONS WHO MAY BE EXAMINED

1) The Act provides that persons who are the subject of an inquiry may claim refugee status and may apply to the IAB for a redetermination should their * claim be rejected by the Minister.

2) a) An immigration officer approached by a person whose immigration status is still valid and who wishes to claim refugee status, will accept the claim. However, since the claim is not being made in accordance with A45, he must advise the claimant that he will have no right to apply to the IAB for a redetermination after having been advised of the Minister's decision on his claim. Furthermore, as in-status claimants are not legally recognized under the Immigration Act, there is no legal requirement to maintain a person in visitor status merely because he has made an in-status refugee claim. If such a claimant continues to be a genuine visitor as defined in the Immigration Act, his status can and should be extended. (The making of a claim would normally be a strong indication of the person's intentions). A visitor who inquires about making an in-status refugee claim should be thoroughly counselled on the possible consequences. If his status is not extended and he remains in Canada beyond the date his current status expires, he will be reportable pursuant to A27(2)(e) and face inquiry regardless of his outstanding in-status refugee claim. He then has the opportunity to submit a refugee claim under A45(1) in the same manner as any other out of status claimant (see IE 8.14(4)). The immigration officer will want to extensively counsel the person before the inquiry to ensure that he understands that A45(1) is the only way to have a refugee claim legally sanctioned under the Act. The onus is on the person to exercise this option. Should the person who has already made an administrative in-status claim choose not to exercise his option under A45(1), he should be informed that his present claim will be considered withdrawn and the inquiry will be concluded. Legitimate claimants will no doubt exercise their option under A45(1).

b) A claimant determined by the Minister not to be a Convention refugee must leave Canada on or before the expiry date of his visitor's status. Should the person fail to leave, an inquiry may ensue. A45 then guarantees the right to a second claim with access to the IAB for redetermination.

c) Should a claimant or his counsel inquire as to the possibility of taking advantage of the provisions of A45 after having made an in-status claim, the SIO must provide factual and accurate information, but will not, in any way, encourage the claimant's violating the terms and conditions of his visitor status by overstaying.

3) A person already having made an in-status claim to refugee status and requesting a second in-status claim be taken will be refused by the SIO.

4) Where an in-status claim has already been made as in paragraph 2) above, and an examinaton under A45 is subsequently conducted, the SIO may reduce the time required for this examination and at the same time satisfy the requirements of A45(1) using the following procedures:

   a) give the person concerned and his counsel a copy of the transcript of the in-status examination under oath;

   b) indicate to the person concerned and his counsel that the procedure followed in the second examination under A45 will be directed toward clarification of information given in the previous examination and toward updating it with additional information where necessary;

   c) explain that this procedure will expedite full and proper examination of the claim without delay due to lengthy repetition of material that is not questioned, nor requiring clarification; the SIO should be familiar with the transcript of the first examination to obtain clarification where salient statements differ considerably between the first and second examinations;

   d) the first examination under oath, and the additions made on the second claim will then be flagged for quick review and forwarded to the RSAC.

5) Should the SIO experience difficulty with this procedure, or if the counsel objects to and will not accept the limitations proposed in paragraph 4) above, advise the Chairman of the RSAC of the details of the case immediately.

8.15 CONDUCTING A REFUGEE EXAMINATION

In the event of claims arising out of 8.14 1), the person will be referred to a senior immigration officer who will examine him under oath. The task of RSAC members will be made easier if examining officers in Canada use an interviewing technique which develops as much relevant information as possible (see also IC 3.34). The following guidelines on the purpose and format of the interview are provided to assist in the conducting of these examinations. The purpose of the interview is to gather all the information possible, which is directly or indirectly relevant to the claim to refugee status. The RSAC will use the interview transcript and supporting material submitted by the claimant, together with related jurisprudence and background material, to reach its conclusions and advise the Minister. The importance of this examination cannot be over-emphasized. It should be conducted in a completely unbiased and helpful manner and the claimant and/or counsel should be permitted to call available witnesses and submit written material relevant to the claim.

1) Control of the Interview

In order to gather as much directly relevant information as possible while keeping the length of the interview within reasonable bounds, the interview must be controlled and the questions relevant and specific. Know what information is required and determine what line of questioning is most apt to develop this information to the exclusion, where possible, of all irrelevant answers.

2) General Interview Format

a) The key to determination of refugee status is the definition of Convention refugee contained in A2. Therefore, the interview must have, as its objective, the provision of a forum for allowing the subject to establish whether he has credible reasons for fearing persecution on one of the grounds specified in the definition. One useful guide, after reading the definition of refugee to the person, is to ask the applicant whether he fears persecution on grounds of his race, religion, nationality, membership in a particular social group, or political opinion. Each should be a separate question and affirmative answers must always be followed up by asking the applicant to cite specific examples of the persecution feared for that reason. Under no circumstances should an affirmative answer be accepted without specific and in-depth clarification.

b) A more oblique and less leading approach can be used and is preferable in most cases. Ask the claimant his religion, what clubs, political, racial or other groups he belonged to in his country. Then try to determine how these groups were treated by the authorities of the country in question. For example, is the claimant's religion one to which the majority of nationals belong? Is the political group left wing, right wing, or middle of the road? Were the activities of the group confined to peaceful protest, or did they advocate or use violence? Was the subject ever arrested? If so, for how long was he detained? Were charges laid? Were these charges criminal or political? Was the subject mistreated during arrest and/or detention? Was he tortured and, if so, how? Was the subject found guilty and, if so, of what crime and what was the sentence?

3) Specific Interview Format

All statements under oath must be taken following the adjournment of an inquiry and the SIO should preface the refugee hearing along the following lines:

This examination under oath pursuant to Section 45(1) of the Act arises from an inquiry concerning (name of person) which commenced on (date) at (place) and was ajourned on (date) for the purpose of examining (name of person) under oath respecting his claim to be a Convention refugee.

A refugee claim may not be taken pursuant to A45(1) in any case where an inquiry has already been concluded by the making of a removal or deportation order. Officers taking statements under oath may find the following format useful:

a) Step I - Vital Statistics

This should include the full name, date of birth, nationality and country of habitual residence, marital status, dependants, and particulars of the applicant's travel documents or passport, dates of departure and arrival, status on arrival, current status in Canada. All claimants should be asked if they have ever previously sought admission to Canada or applied for an immigrant visa (see also IC 3.34). If so, give office, date of application and results or reply received.

b) Step II - Mode of Exit

How did the applicant leave his country and how did he proceed to Canada? Did he flee without documents, evade exit controls or otherwise? If he passed through or visited other countries where he could have sought asylum, did he apply there for refugee status? If not, why is he now seeking refuge in Canada rather than at the first opportunity?

c) Step III - Previous Persecution

Determine whether the applicant was persecuted prior to leaving his country of nationality or habitual residence. The claimant should be encouraged to present his story in chronological order.

d) Step IV - Fear of Persecution Now

If the applicant was not persecuted prior to leaving, how has the situation changed? Does the fact that he has overstayed his visit, deserted his ship, or sought permanent residence mean he will be persecuted on his return or simply prosecuted in the same manner as any other national of that country taking similar action? If the latter, what punishment does he expect on his return?

e) Step V - Review

Before concluding the interview, briefly review any strong indications of fear of persecution. For example, if the applicant claims to have been detained by police, imprisoned or tortured, or claims to have lost employment because of political beliefs, race, religion, etc., try to develop a clear indication of whether these were the real reasons.

4) The claimant and his counsel should be informed that if, after reading the transcript, they find salient points or important evidence which were not introduced at the hearing, they should send this information in affidavit form to the CIC where the claimant's file will be held for a maximum of two weeks before being sent to the RSAC for consideration.

5) The refugee claim transcript and summary must be accompanied by a fully completed IMM 8. This will facilitate a speedy review of rejected refugee claimants by the Special Review Committee. No decision can be reached by the SRC without this information. Officers must ensure that the IMM 8 is not attached to, or form port of, the refugee claim transcript.

6) The phone number and address of the CIC or CPO where the refugee claimant's file is being held pending a decision must be indicated on the covering memorandum to the Registrar, RSAC. The RSAC Secretariat should be advised of changes of address of refugee claimants as A45(5) requires that all claimants be advised directly of the Minister's determination.

+ 7) Requests For Access by The Public/Media

a) The Commission is under no legal obligation to open the Examination Under Oath to the public. If, however, requests for access are made by the public, including the media, it is the Commission's policy that no objection will be raised to such access providing the person concerned consents to the presence of the public/media and providing the conduct of the hearing is not impeded.

b) Where a request for access is received from the public/media, the SIO should inform the person concerned and should ascertain whether the person's consent will be given. If consent is given, the person concerned should go on record as having done so.

c) Cases may arise where the person concerned denies consent to allow access to the hearing. Regional Public Affairs officials should be apprised of any case involving public/media interest and any persistent arguments regarding access to Examinations Under Oath should be directed to appropriate EIC spokespersons.

8.16 SUMMARY AND REPORT

1) The summary accompanying the transcript to be sent to the Registrar of the RSAC should briefly outline the areas indicating fear of persecution and those statements which indicate the opposite. No recommendation concerning eligibility for refugee status is required. The RSAC's prime requirement is information. If the examining officer feels that, regardless of whether the applicant is found to be a refugee, there are reasons why he would suffer unusual hardship if returned to his country or there are extenuating

humanitarian or other circumstances, he should state what these are. This information may be of value in deciding the ultimate disposition of the case even though it is not relevant to the question of refugee status. Copies of travel documents or passports as well as any written evidence at the time of the interview should be referred to the Committee along with the examination transcript.

2) Persons from special category countries seeking political asylum are to be dealt with as outlined in IC 1.54.

8.17 COMMUNICATION OF POSITIVE DETERMINATION

1) A person who claims refugee status during an inquiry and is determined by the Minister to be a refugee, shall be informed in writing of that determination by the Registrar of the RSAC. The letter will inform him to await further instructions from the senior immigration officer who took his claim.

2) Once it has been determined that a refugee in Canada is a Convention Refugee, the CIC concerned will immediately notify the appropriate post abroad where they will consider the facilitation of early admission of his family by way of a Minister's Permit, provided medical and background requirements have been satisfied. This will accelerate processing towards landing in Canada as a family unit. Unless members of the family qualify as CRs in their own right, CICs will land them as FC members.

8.18 COMMUNICATION OF NEGATIVE DETERMINATION

1) Claims Arising Out of Inquiry

When a person who claims refugee status during an inquiry is determined by the Minister not to be a refugee, the Registrar of the RSAC shall inform the senior immigration officer and the claimant in writing of the Minister's decision. The letter to the claimant will counsel him that he has the right to apply to the IAB for a redetermination of his claim and that this application must be made to the Board no later than 15 days following receipt of his letter, or being personally handed a copy of the letter by the senior immigration officer, whichever is earlier.

2) Persons Found Not to be a Refugee

a) A refugee claim monitoring system has been established within the RSAC to assist in detecting any unusual trends in the volume of refugee claims. It is also intended to determine the length of time a person may extend his stay in Canada by making a refugee claim and allow the CEIC to take such corrective action as may be indicated.

b) In this regard, all memoranda to CICs, advising them of a negative RSAC decision, will be accompanied by an RSAC Control Card. This card should be attached to the inside front cover of the CIC file. It should be returned to the RSAC as soon as any of the actions indicated in Part C have been taken.

c) The case will then be referred to the Special Review Committee, Operational Procedures and Case Review, Immigration, HQ (see also * IE 9.06 and IE 9.36).

d) CICs are requested not to defer further action pending an SRC decision. Cases should proceed up to the point where the officer has received an application for re-determination (IAB 91). At this stage, the application should be held in abeyance until the SRC decision is received.

e) In cases where a refused claimant does not seek re-determination, it is advisable to await the SRC decision before resuming the inquiry.

8.19 ISSUANCE OF MINISTER'S PERMITS AND EMPLOYMENT AUTHORIZATIONS TO REFUGEES

1) Minister's Permits - Convention Refugees

a) A refugee claimant found by the Minister or by the IAB to be a Convention refugee will be issued a Minister's Permit (form IMM 1263) with permission to work while being processed toward landing (see also IS 10.40 and 10.43).

b) The Minister's Permit will be issued as soon as the senior immigration officer is advised of a favourable decision by the Minister (A45), and before resumption of the inquiry (A47(1)), thereby ensuring that an adjudicator does not conclude that the refugee, not being "lawfully in Canada" (A4(2)b)), does not have the right to remain.

2) Employment Authorizations for Refugee Claimants Pursuant to R19(4)(k)(ii)

a) Applications for employment authorizations submitted pursuant to R19(4)(k)(ii) by refugee claimants may be considered after the statement under oath has been taken respecting a claim pursuant to A45(1).

b) Every request for an employment authorization under R19(4)(k)(ii) should be considered on its own merit. An employment authorization should only be granted where the claimant could not otherwise subsist without public assistance. For instance, where the claimant has relatives in Canada who are in a position to sustain him in a reasonable manner until his claim has been determined, the request for an employment authorization should be refused. However, in cases where the claimant has no relative in Canada who is in an appropriate financial position and the claimant has little money and no other means of support, an employment authorization should be granted.

c) A claimant to refugee status under A45 is exempt from CEC validation in accordance with R20(5)(a).

d) The Immigration Act provides for the consideration of a claim to Convention refugee status only during the course of an Inquiry. The process is for a Senior Immigration Officer to conduct an examination under oath in accordance with A45(1). While the Commission will continue to consider in-status claims to refugee status, this is an administrative procedure only. In-status claimants are not legally recognized under the Act and do not enjoy any privilege provided under the Act to the A45 claimant in respect of re-determinations or eligibility for employment authorizations.

e) It should be kept in mind that in-status claimants may be eligible for an employment authorization for other reasons. For example, a student may come from a country where a political upheaval, etc., has occurred. As a result, the student's funds might be cut off and he could therefore be eligible for an employment authorization even though a refugee claim may also be submitted.

f) Where flagrant or deliberate contravention of R18 by the refugee claimant is apparent, do not authorize employment until a favourable decision has been reached on the person's claim to refugee status.

* g) Cases as in 2)f) above must be marked "URGENT" when submitted to the RSAC to ensure prompt consideration.

3) Exception

A Convention refugee, already protected by, or returnable to, a country other than one where his life or freedom would be threatened, is excluded from the provisions of paragraphs 1) and 2) above.

4) Convention Refugees Described in A19(1)c), d), e), f) or g)

a) A Convention refugee seeking permanent residence may, in rare instances, be determined to be a person described in A19(1)c), d), e), f) or g). However, it may, nevertheless, be considered advisable to allow the person to remain in Canada. In such cases, the senior immigration officer will submit full particulars of the case, along with the recommendation through the Director of Immigration to the Director,
* Operational Procedures, NHQ, for concurrence (see also IS 10.40).

b) Where it is decided to proceed with removal action, the Minister's Permit must either be cancelled or allowed to expire, and new inquiry action begun through a Section 27 Report. (For cancellation and removal procedures, refer to 10.53.)

8.20 PRIORITY PROCESSING

Persons from countries listed at App. "B" to IC 1 who made "in status" refugee claims shall be given priority consideration and accelerated processing if, at the time of their claim, at least three weeks remain in the validity of their exit visas and travel documents. This is necessary to enable such applicants to return to their home countries within the validity of their travel documents in the event they are found not to be refugees.

8.21 CONVENTION REFUGEES - VOLUNTARILY RETURNING TO COUNTRY OF NATIONALITY

1) It may occasionally develop that between the time a refugee claimant is determined to be a Convention refugee and the time the landing in Canada actually takes place, the individual briefly returns voluntarily to his country of nationality or country of former habitual residence.

2) In cases of this nature, officers should be alert to the possibility that the Convention may cease to apply to individuals who voluntarily return to the country from which they may have fled for reasons which may have formed the basis for their initial claim. Depending on the individual circumstances of the case, such individuals may possibly be considered as having re-availed themselves of the protection of the country of their nationality or former habitual residence. Consequently, they may not be entitled to landing as a Convention refugee.

3) The following situations are likely to arise and should be dealt with as outlined.

a) Post Abroad - where a visa officer has determined that a person has re-availed himself of the protection of the home country so as to remove himself from the definition "Convention refugee", he will make a report to his Officer in Charge recommending cancellation of the Minister's Permit. Where the Officer in Charge concludes that the person has re-availed himself of the protection of his home country, a copy of the visa officer's report together with the recommendation of the Officer in Charge will be dispatched immediately to the appropriate geographic bureau at CEIC NHQ. Following consultation at the appropriate level, the post will be advised whether to cancel the Permit.

b) Port of entry - all Convention Refugees who have not yet been landed should be in possession of a valid Minister's Permit. When such a person appears at a port of entry seeking entry from his country of nationality, the reason for his visit there should be established. Where no extenuating circumstances compelled the person's return, his Minister's Permit should be cancelled. A report should subsequently be written based on A19(2)(d) and 9(1). The person will then have an opportunity to make another claim to refugee status.

c) Inland - if such a person comes to our attention after re-admission, his Permit could be allowed to expire. A Ministerial deportation order would be inappropriate in this circumstance since it would not give the person an opportunity to make another refugee claim. A direction for inquiry may be issued based on the original grounds. If there are no grounds for inquiry, consideration should be given to submitting the new facts to the RSAC requesting re-examination of the case.

When the Convention Refugee has been landed and then re-avails himself of the protection of his country of nationality, an A27(1) report for having obtained landing by fraudulent or improper means may be possible. However, substantial evidence would have to be available in a form suitable for presentation at an inquiry.

8.22 REFUGEE CLAIMANTS AND THEIR DEPENDANTS ATTENDING SCHOOL

1) As the requirements of A10, R15 and 16 do not apply to refugee claimants under A45(1) or their dependants in terms of the requirement for a student authorization, there is no legal way to authorize such persons to attend school. The law simply does not cover their situation. A10 refers to persons seeking entry (i.e., visitors) and claimants under A45(1) are no longer visitors. Since claimant under A45(1) are not visitors, they do not need student authorizations. If refugee claimants under A45(1) and their dependants neither need nor can acquire a student authorization, the question of how they attend school must be addressed.

2) Dependants (with a valid visitor status) of accepted applicants for landing are issued student authorizations under R16(1)(b) (incidental purpose). In-status refugee claimants and their visitor dependants can be treated in the same manner. R16(1)(b) could also, in principle, apply to the visitor dependant of a refugee claimant under A45(1). R16(1)(a) and R15(2) also allow the son or daughter, with valid visitor status, of a holder of an employment authorization to apply for a student authorization in Canada. While many claimants under A45(1) have employment authorizations, there is no legal way of authorizing study for any dependants if they do not have valid visitor status despite our sympathy with their situation and desire to assist them during the lengthy refugee determination process. The fact that our legislation is silent on this matter does not specifically prevent school attendance by such persons. Our present legislation does not require non-visitors to obtain a student authorization and such persons can, in fact, study without obtaining one.

3) The immigration officer will complete and issue the letter at App. "B" where necessary to refugee claimants under A45(1) and their dependants for presentation to the applicable school authorities to facilitate school enrollment. Officers will want to ensure, before giving a "no objection" letter, that the person is no longer a visitor, including consideration of any possibility of implied status.

4) A further extension of this procedure relates to permit holders, persons in the inquiry stream who are not visitors, and even illegals, who could technically attend school without our authorization under our present legislation. While it is generally believed that school attendance by refugee claimants and their dependants should be facilitated on humanitarian grounds, this is not necessarily the case with other non-visitors. Accordingly, it is suggested that "no objection" letters be issued strictly on a case-by-case basis to other non-visitors where humanitarian and compassionate considerations are seen to exist. This is to minimize any undermining of our student authorization control mechanism and any incentive for persons to go out of status. We further suggest that CIC Managers closely monitor the issuance of all "no objection" letters.

8.23 MEDICAL EXAMINATION OF REFUGEE CLAIMANTS (to be read in conjunction with 8.12)

1) At Ports of Entry

All persons claiming to be refugees at the port of entry are to be referred for medical examination without awaiting the taking of examination under oath.

2) Inland

It is not necessary to do a file search in order to call in refugee claimants already in Canada, specifically for a medical examination. They can be referred for examination when their files are next brought forward in the course of normal processing. Most in-status claimants can be referred for medical examination in accordance with R21 when they require extensions * of their visitor's status for an aggregate period in excess of six months. Some in-status claimants, and permit holders, may also be medically examined in accordance with A11(2) where the Immigration officer is of the opinion that the person may be a member of the inadmissible class described in A19(1)(a).

3) Validity Dates of Medicals

* As medical examinations of potential immigrants in Canada have an unlimited validity, the examination will not need to be repeated at a later date should a claimant be allowed to stay in Canada, thus saving time in the eventual processing of cases for landing in Canada.

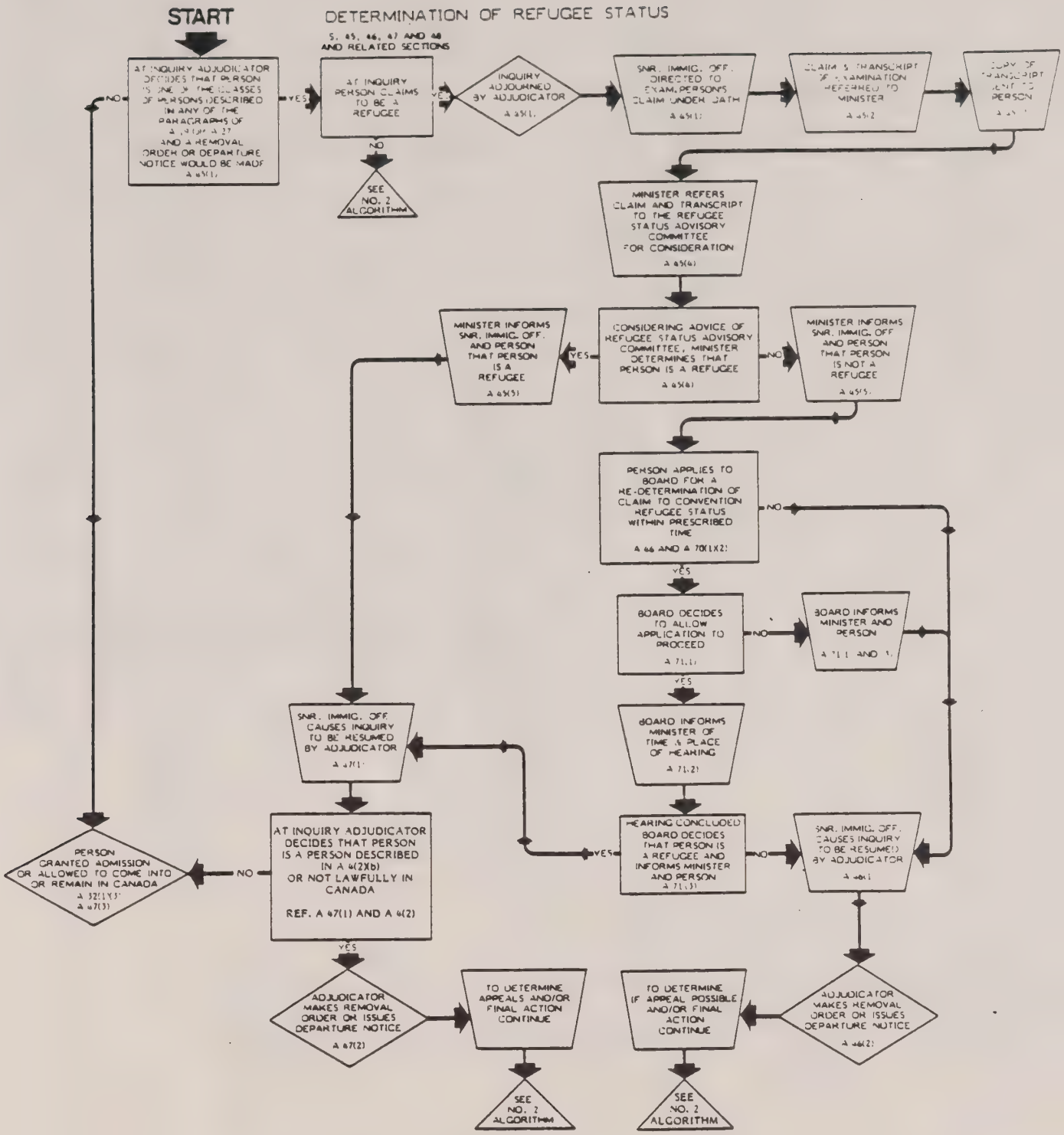
4) Effects on Inquiry

Inquiries are not to be delayed pending medical results unless Immigration officers clearly suspect that a person may be inadmissible by virtue of A19(1)(a).

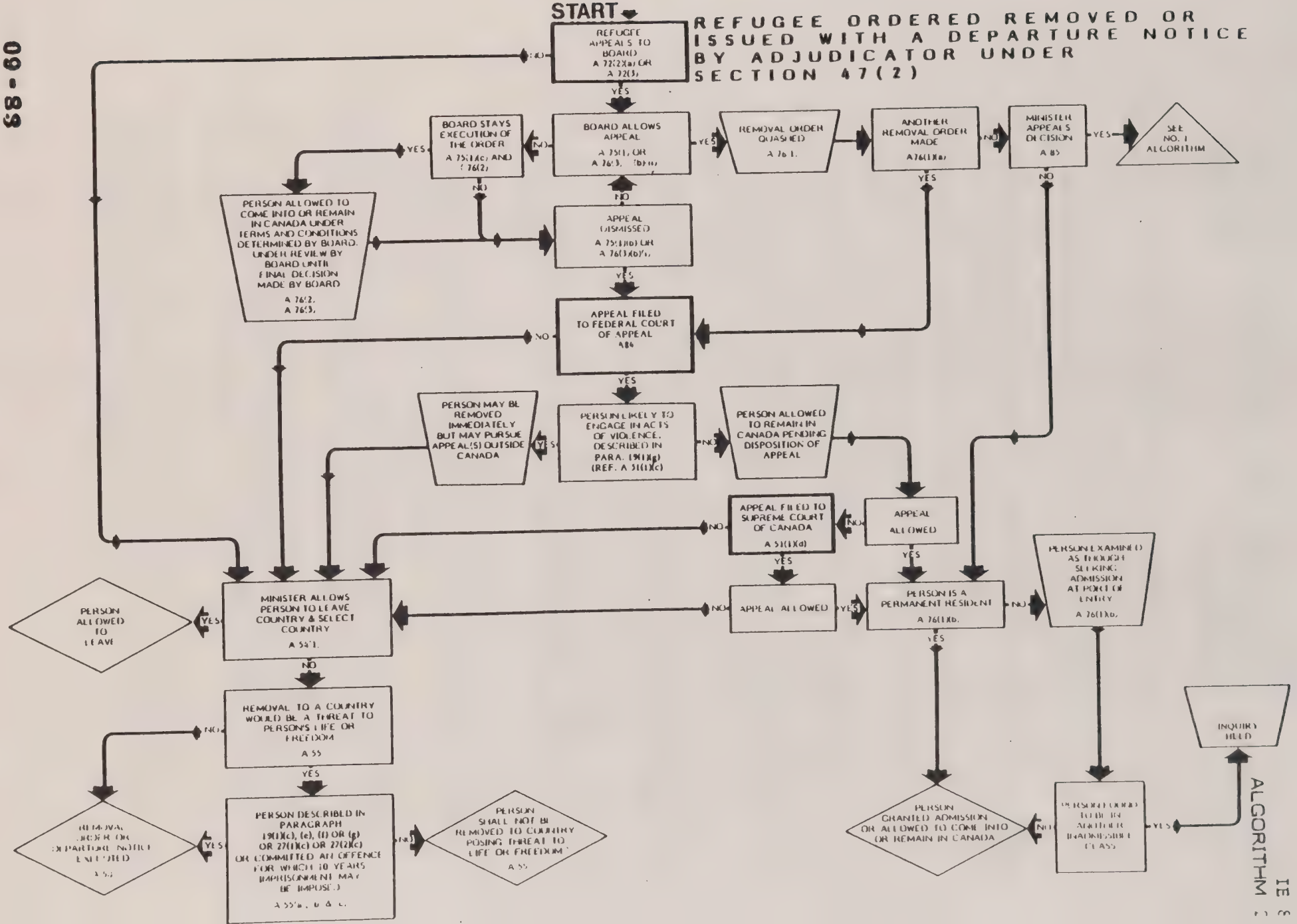
5) Role of Health & Welfare

Health & Welfare Canada arranges such examinations on our behalf, and are * prepared to contract the examination to the provinces. Depending upon costs, Regional Immigration officials will liaise with their counterparts at Health and Welfare for ongoing referral procedures, of refugee claimants, for medical examinations.

8.24 ON...SPARES


START
DETERMINATION OF REFUGEE STATUS
S. 45, 46, 47 AND 48 AND RELATED SECTIONS
AT INQUIRY ADJUDICATOR DECIDES THAT PERSON IS ONE OF THE CLASSES OF PERSONS DESCRIBED IN ANY OF THE PARAGRAPHS OF A 19(1)(a) A 27 AND A REMOVAL ORDER OR DEPARTURE NOTICE WOULD BE MADE A 45(1)
NO
YES
AT INQUIRY PERSON CLAIMS TO BE A REFUGEE
NO
SEE NO. 2 ALGORITHM
YES
INQUIRY ADJOURNED BY ADJUDICATOR A 45(1)
SNR. IMMIG. OFF. DIRECTED TO EXAM. PERSON'S CLAIM UNDER OATH A 45(1)
CLAIM & TRANSCRIPT OF EXAMINATION REFERRED TO MINISTER A 45(2)
COPY OF TRANSCRIPT SENT TO PERSON A 45(2)
MINISTER REFERS CLAIM AND TRANSCRIPT TO THE REFUGEE STATUS ADVISORY COMMITTEE FOR CONSIDERATION A 45(4)
CONSIDERING ADVICE OF REFUGEE STATUS ADVISORY COMMITTEE, MINISTER DETERMINES THAT PERSON IS A REFUGEE A 45(6)
YES
MINISTER INFORMS SNR. IMMIG. OFF. AND PERSON THAT PERSON IS A REFUGEE A 45(5)
NO
MINISTER INFORMS SNR. IMMIG. OFF AND PERSON THAT PERSON IS NOT A REFUGEE A 45(5).
PERSON APPLIES TO BOARD FOR A RE-DETERMINATION OF CLAIM TO CONVENTION REFUGEE STATUS WITHIN PRESCRIBED TIME A 46 AND A 70(1)(2)
NO
YES
BOARD DECIDES TO ALLOW APPLICATION TO PROCEED A 71.(1)
NO
BOARD INFORMS MINISTER AND PERSON A 71.1 AND 3.
YES
BOARD INFORMS MINISTER OF TIME & PLACE OF HEARING A 71.(2)
SNR. IMMIG. OFF. CAUSES INQUIRY TO BE RESUMED BY ADJUDICATOR A 47(1)
HEARING CONCLUDED BOARD DECIDES THAT PERSON IS A REFUGEE AND INFORMS MINISTER AND PERSON A 71.(3)
YES
NO
SNR. IMMIG. OFF. CAUSES INQUIRY TO BE RESUMED BY ADJUDICATOR A 46(1)
AT INQUIRY ADJUDICATOR DECIDES THAT PERSON IS A PERSON DESCRIBED IN A 4(2)(b) OR NOT LAWFULLY IN CANADA
REF. A 47(1) AND A 4(2)
NO
PERSON GRANTED ADMISSION OR ALLOWED TO COME INTO OR REMAIN IN CANADA A 32(1)(3) A 47(3)
YES
ADJUDICATOR MAKES REMOVAL ORDER OR ISSUES DEPARTURE NOTICE A 47(2)
TO DETERMINE APPEALS AND/OR FINAL ACTION CONTINUE
SEE NO. 2 ALGORITHM
TO DETERMINE IF APPEAL POSSIBLE AND/OR FINAL ACTION CONTINUE
SEE NO. 2 ALGORITHM
ADJUDICATOR MAKES REMOVAL ORDER OR ISSUES DEPARTURE NOTICE A 46(2)

REFUGEE ORDERED REMOVED OR ISSUED WITH A DEPARTURE NOTICE BY ADJUDICATOR UNDER SECTION 47(2)



EXTRACT FROM "1951 CONVENTION RELATING TO THE STATUS OF REFUGEES"

ARTICLE 1

C. This Convention shall cease to apply to any person falling under the terms of section A if:

1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

2) Having lost his nationality, he has voluntarily re-acquired it, or

3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality, or

4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality,

6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs. or agencies of the United Nations other than the United Nations, High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes,

b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

ARTICLE 32

EXPULSION

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

ARTICLE 33

PROHIBITION OF EXPULSION OR RETURN ("REFOULEMENT")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

"NO OBJECTION" LETTER

* (Reference at IE 8.22 3))

To Whom It May Concern:

The bearer of this letter _____ of _____, who holds passport/travel document # _____,

(CIC to stroke out non-applicable ending)

has submitted a claim to refugee status in Canada.

or

is a dependant of _____ who has submitted a claim to refugee status in Canada.

_____ has indicated that he/she wishes to study in Canada. This is to inform you that, although our Regulations do not permit us to issue a student authorization in this case, we have no objection to _____ attending school in Canada.

_____ is not a permanent resident of Canada and a decision has not yet been made on the claim to refugee status. His/her temporary attendance at a school is at the discretion of school officials.

Yours truly,

Signature and CIC Stamp

\+ NOTE: This is a specimen letter with suggested wording. Preferences as to final wording, and the use of word-processors to produce "original" letters at the local office level (in lieu of pre-printed form letters) is left to the discretion of local managers as long as the original intent is not changed. Any office using pre-printed form letters (i.e. not on a word-processor) must be guided by CEIC "Forms Management Policy" (see Appendix "B" to Chapter IA 7).

Employment and Immigration Canada | Emploi et Immigration Canada

REFUGEE CLAIM TRACKING DOCUMENT
REVENDICATION DU STATUT DE REFUGIE — DOCUMENT DE SUIVI

COMPLETE WHEN INQUIRY ADJOURNED 45(1) OR REFUGEE CLAIM MADE BY IN-STATUS PERSON
À REMPLIR LORSQUE L'ENQUÊTE EST AJOURNÉE SELON LE 45(1) OU LORSQU'UN REVENDICATION DU STATUT DE RÉFUGIÉ EST PRÉSENTEE PAR UNE PERSONNE AUTORISÉE DE SÉJOUR

Headquarter's Use Only - *Réservé*

(01) 71 (03) (04) (13) S 010 192 094

EDS Number / *Numéro SDÉ* (23)

Office File Number / *N° de référence du bureau* (33)

Surname - *Nom* (45)

Given Names - *Prénoms* (75)

Date of Birth / *Date de naissance* (98) D-J M Y-A 19

Date Inquiry Adjourned 45(1) / *Enquête ajournée le* (107) D-J M Y-A

Country of Citizenship - *Pays de citoyenneté*
Actual - *Réel* (113)
Claimed - *Prétendu* (116)

Country Issuing Passport/Travel Document / *Pays de délivrance du passeport/document de voyage* (119)

Carrier Used To Arrive / *Transporteur utilisé pour venir au Canada* (122)

Embarkation City - *Ville d'embarquement* (125)

Visa Holder - *Titulaire d'un visa* 1 Yes / *Oui* 2 No / *Non* (127)

Transit Without Visa / *En transit sans visa* 1 Yes / *Oui* 2 No / *Non* (128)

Detained / *Détenu(e)* 1 Yes / *Oui* → Date Initially Detained / *Détenu(e) la première fois le* D-J M Y-A (130)
2 No / *Non* (129)

Number of Persons Included Under This Claim (Include Claimant) / *Nombre de personnes incluses dans cette revendication (y compris le revendicateur)* (135)

Marital Status / *État matrimonial* 1 Single / *Célibataire* 2 Married / *Marié(e)* 3 Widowed / *Veuf(veuve)* 4 Divorced / *Divorcé(e)* 5 Separated / *Séparé(e)* (138)

TO BE COMPLETED FOR IN-STATUS CLAIMANTS ONLY — *A REMPLIR POUR LES REVENDICATEURS AUTORISÉS DE SÉJOUR SEULEMENT*

C.L.P.R. / *DPRP* (139)

Date Request Made / *Revendication présentée le* (142) D-J M Y-A

Sex - *Sexe* 1 Male / *Homme* 2 Female / *Femme* (148)

Processing Office / *Bureau chargé de la révision* (149)

Errors - *Erreurs* (150)

Utilities - *Utilités* (160) (161) (163) (164) (165)

MM 141 (1-84)

Canada

Employment and Immigration Canada | Emploi et Immigration Canada

R.S.A.C. REFUGEE CLAIM UPDATE DOCUMENT
REVENDICATION DU STATUS DE RÉFUGIÉ — DOCUMENT DE MISE À JOUR

COMPLETE WHEN TRANSCRIPT IS RECEIVED
À REMPLIR AU REÇU DU COMPTE RENDU

Headquarter's Use Only - Réservé

(01) 7 5 (03) (04)

REFUGEE NUMBER - *N° DU RÉFUGIÉ*

(13) S

Surname - *Nom*

Given Names - *Prénoms*

Date of Birth
Date de naissance (21) D-J M Y-A 1 9

Date Transcript Received
Compte rendu reçu le (31) D-J M Y-A

Errors - *Erreurs* (153)

Utilities - *Libres* (156) (157) (158) (159) (160) (161) (162) (163) (164) (165)

IMM 1414 (1-84)

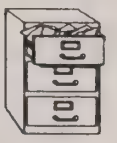
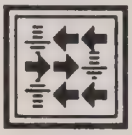
Canada

PROGRAM DATA — N.H.Q. — *DONNÉES DU PROGRAMME, AC* 1

Chapter 9

PERSONS SEEKING PERMANENT RESIDENT STATUS IN CANADA

SYMBOLS

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IE 9 Acronyms	
CEC	Canada Employment Centre
CIC	Canada Immigration Centre
CVV	Canada Visitor Visa
FC	Family Class
FDM	Foreign Domestic Movement
IDC	Interdepartmental Committee on Immigration
IS	Immigration Selection and Control Manual
NHQ	National Headquarters
OIC	Order in Council
SIO	Senior Immigration Officer
SIQ	Quebec Immigration Service



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AUTHORITY

Act: 9, 38(2), 114(2),

Legal Basis	Short Title
A9	Application for Visa
A38(2)	Landings authorized by Governor-in-Council
A114(2)	Exemption from Regulations

GENERAL INTENT

9.01 GENERAL

It is a cornerstone of the Immigration Act that persons apply for and obtain their immigrant visas from outside Canada (A9(1)). There may be instances, however, where the requirement to leave Canada to apply for a visa would create undue hardship for the applicant. Therefore, A114(2) enables the Governor-in-Council to facilitate the admission of persons for reasons of public policy or for compassionate or humanitarian considerations. The Governor-in-Council may prescribe regulations to exempt persons from the requirements of A9(1) or from any Immigration Regulation made under 114(1).

9.02 – 9.03 SPARE

GUIDELINES

9.04 LEGISLATIVE REQUIREMENTS

The law allows for consideration of requests for permanent residence in three of its provisions.

1) Landings Authorized by Governor-in-Council

A38(2) allows the Governor-in-Council to authorize the landing of any person who, at the time of landing, has resided continuously in Canada for at least five years under the authority of a Minister's Permit issued under the present immigration law and any previous immigration law. (see also IS 1.16).

2) Landings Authorized by the Minister

A117 of the Immigration Act, 1976 allowed the Minister to authorize the landing in Canada of any person ordered deported under authority of the Immigration Act as it read before November 13, 1967, where this order has not been executed. Although not consolidated in Chapter 1-2 of the Revised Statutes, 1985, this provision was not repealed either, and remains available for use if appropriate.

3) Exemptions

A114(2) enables the Governor-in-Council to facilitate the admission of persons for reasons of public policy or for compassionate or humanitarian considerations. The Governor-in-Council can prescribe persons who may be exempted from the requirement of A9(1) or from any Immigration Regulation made under A114(1).

9.05 EXERCISE OF DISCRETION

1) Officer's Duty to Consider Requests for Exemption

In its decision in the Jiminez-Perez case, the Supreme Court confirmed that immigration officers are under a duty to consider requests for an exemption under Section 114(2) of the Immigration Act from the visa requirement of A9(1) for reasons of public policy or on compassionate and humanitarian grounds. The Court added that immigration officers will, in the name of the Minister, deal with such requests and advise the petitioners of the result. In short, immigration officers may decide which cases warrant a recommendation to the Governor-in-Council for an exemption due to the existence of humanitarian and compassionate grounds or for reasons of public policy and also decide, on behalf of the Minister, that special relief is not warranted in other cases.

2) Informed Recommendations by Officer

The proper exercise of discretion not only benefits our clients, but it is also consistent with the objectives of the Immigration Act in upholding Canada's humanitarian traditions. It is implicit in the exercise of any discretion, whether that of the immigration officer who makes the initial recommendation, the Minister who makes the recommendation to the Governor-in-Council, or the Governor-in-Council which, in law, makes the decision, that decisions are made on a case-by-case basis. It is important therefore, that officers realize that the guidelines that follow are not intended as hard and fast rules. They will not answer all eventualities, nor can they be framed to do so. Officers are expected to consider carefully all aspects of

cases, use their best judgment, and make an informed recommendation. When assessing requests for consideration, officers should ask themselves: "What would a reasonable person do in such a situation?".

3) The Use of Discretion

a) Although officers are not expected to delve into areas which are not presented during examination or interviews, they should attempt to clarify possible humanitarian grounds and public policy considerations even if these are not well articulated.

b) The exercise of discretion, as it relates to public policy situations, is described in IE 9.06 below. Discretion, as it relates to humanitarian and compassionate grounds, is described in IE 9.07. The two areas are not mutually exclusive, but as they involve different assessments, they have been grouped separately.

9.06 PUBLIC POLICY SITUATIONS

1) General

A114(2) provides for discretion for reasons related to public policy. These are situations that warrant consideration from within Canada as a result of a policy direction taken by the Commission in the interest of the Immigration Program and not necessarily because officers feel that humanitarian grounds exist. Persons dealt with under "Public Policy", would normally be expected to fall into one of the categories listed below. Persons who do not meet the criteria for consideration under Public Policy will be examined to determine if there exist any humanitarian compassionate grounds which would warrant favourable consideration (see IE 9.07).

2) Spousal Policy (see also IE 9.14)

Requests for visa exemption made by spouses of Canadian residents will be sympathetically examined bearing in mind that separation of spouses in genuine marriages entails hardship which normally warrants the exercise of special relief (see procedures in IE 9.14 for exceptions). In the case of a genuine marriage, that is, a marriage of substance and of likely duration that has been entered into in good faith, and not merely for immigration purposes, it is not necessary for the persons concerned to prove additional hardship in order for a request for relief from A9(1) to be processed.

3) Illegal De Facto Residents Policy (see IE 9.15)

Persons who meet the definition of an illegal de facto resident may be considered from within Canada. Illegal de facto residents are administratively defined as those persons who have not previously come to our attention and who, although they have no legal status in Canada, have been here so long and are so established that, in fact if not in law, they have their residence in Canada and not abroad. Establishment refers to persons who are self supporting and who are unlikely to become public charges. These persons will have gone "underground" and will not have come previously to official immigration attention, e.g. as unsuccessful refugee claimants, members of the refugee claims backlog or persons previously ordered removed. Such persons would have severed their ties with their home country and would undergo hardship if they were required to leave Canada in order to seek a visa to return (legally) as permanent residents.

4) Long Term Commitment to Canada Policy

Officers may consider sympathetically the situation of long-term employment authorization holders in valid status who request processing of their application for permanent residence from within Canada. Such

cases should be examined along lines similar to the Illegal De Facto Resident guidelines. The principal criterion will be the applicants' long-term prospects for continuation of their employment in Canada and social integration into the Canadian way of life. Such persons will have established homes in Canada, may have raised and educated children here; their children may be Canadian citizens by birth. There would be no real residence abroad where these persons could reasonably be expected to apply for immigrant visas.

5) Foreign Domestics Policy (see IE 9.16)

The Foreign Domestic program is premised on a two-year assessment period which provides an opportunity for candidates to work in Canada and to upgrade their skills. Provided the foreign domestic appears able to establish in Canada, is not inadmissible and has provided satisfactory service while in Canada, a positive recommendation should be made.

6) National Interest Policy

There may be situations, not elsewhere described, where it is in the national interest to facilitate a person's admission to Canada. These situations must have a considerable impact on the economic, cultural, social or scientific aspects of life in Canada.

9.07 HUMANITARIAN AND COMPASSIONATE GROUNDS

1) Officers to Examine the Existence of Humanitarian and Compassionate Circumstances

A114(2) also provides for discretion for reasons related to the existence of humanitarian and compassionate considerations. Having assured himself/herself that a client who requests consideration under A114(2) does not fall within a Public Policy situation (see IE 9.06), officers should then examine the existence of humanitarian and compassionate circumstances.

2) When Humanitarian and Compassionate Grounds Exist

a) Humanitarian and compassionate grounds exist when unusual, undeserved or disproportionate hardship would be caused to the person seeking consideration if he or she had to leave Canada.

b) The fact that the person is self-sufficient in Canada would not normally constitute grounds for a positive recommendation on humanitarian grounds (in the same way that it would not be sufficient in order to deal with someone under, e.g., the Illegal de Facto Resident Policy). There must be other factors such that refusal of the request would be unusually harsh.

c) To assist officers in identifying situations which may warrant a humanitarian and compassionate response, the examples outlined below have been provided. These should not be considered as exhaustive.

3) Situations Involving Family Dependency

a) The requirement to leave Canada and to apply abroad in the normal manner could result in undue hardship for some close family members of a Canadian resident because of the would be immigrant's financial or emotional dependency on family in Canada. These could be parents, children or even persons not necessarily related by blood, but who are a de facto part of the family. Although spouses are not mentioned as they fall under Public Policy situations, the situation of spouses where there has been a sponsorship withdrawal, will be examined on compassionate grounds (see IE 9.14(3)).

b) Officers should consider the reason why the person did not apply abroad as required by A9(1), the degree of independence exhibited before coming to Canada, the existence of family or other support in the home country. Issues such as the cost or inconvenience of having to return home to apply in the normal manner would not generally constitute hardship. Having weighed these factors, officers should be able to conclude whether favourable consideration is warranted.

4) Severe Sanctions or Inhumane Treatment in Country of Origin

a) Positive consideration may be warranted where there exists a special situation in the person's home country, and undue hardship would likely result from removal. Such persons might face severe government sanctions on returning home because of things they have said or done while in Canada, e.g. while in Canada, a visitor has made public condemnatory comments on the policies of his/her government or has publicly embarrassed a repressive government. Examples include members of official delegations, athletic teams or cultural groups who may have spoken out against their government or whose attempt to remain in Canada could in itself result in official sanctions upon return home.

b) Others may warrant consideration because of their personal circumstances in relation to current laws and practices in their country of origin. Such persons could reasonably expect unduly harsh or inhumane treatment in their country should they be removed. In these cases there should be strong reasons to believe that the person will face a life threatening situation in his or her homeland as a direct result of the political or social situation in that country. Such situations are more likely to occur in countries with repressive governments or those experiencing civil strife or at war.

c) Persons described above will, in most cases, have indicated an intention to claim refugee status and a review of their situation will occur in the context of the refugee claim procedures (see IE 12 or the Refugee Claimant's Backlog Clearance Program). Officers may, however, also deal with requests from persons who are reluctant to claim refugee status, either because of fear for families living abroad or because they realize that they would not meet the strict Convention Refugee definition. These persons may, nevertheless, feel that their situation warrants special consideration.

d) Officers will consider the facts of the case and recommend what they believe is reasonable in the particular situation. The onus is on applicants to satisfy the officer that a) a particular situation exists in their country and that, b) their personal circumstances in relation to that situation make them worthy of positive discretion.

9.08 – 9.09 Spares

PROCEDURES

9.10 REQUESTS FOR EXEMPTION FROM A9(1)

1) Who May Request Consideration

Persons who are in status as well as those who are out of status and have been reported under A27, or who are already in the inquiry stream may have their situation reviewed.

2) Onus on the Client to Show Grounds for Special Consideration

a) The onus is on the client to satisfy the immigration officer that there are grounds for favourable recommendation. Officers are not required to prove that such grounds do not exist before refusing to process a case from within Canada, only that there are reasonable grounds for believing that they do not exist.

b) For example, in spousal cases, the onus is on the client to satisfy the officer that the marriage is genuine. It is not incumbent on officers to prove that the marriage is not bona fide before refusing to deal with the case from within Canada. Similarly, persons who request consideration as illegal de facto residents must satisfy the officer that they meet the basic criteria for approval. It is not up to officers to prove that they do not.

3) Applicants at Inquiry

Although a review should always be granted if it is requested, there is no obligation to delay an inquiry or removal in order to carry out such a review, nor to allow for written representations. Applicants and their counsel can reasonably be expected to present their case verbally and without delay.

4) Applicant Inadmissible

The Immigration Act requires that immigrants not be members of an inadmissible class. Public Policy considerations are not intended to overcome this requirement. Therefore, persons who are inadmissible for medical or criminal reasons would normally be refused processing from within Canada, even if they do meet the basic criteria for inland processing, unless there are strong humanitarian reasons for dealing favourably with them. In the case of inadmissibility for criminal reasons, officers must be satisfied that the individual is rehabilitated (whether or not the person is eligible for rehabilitation under the Act). In medically inadmissible cases, officers may wish to consult with provincial health authorities before arriving at a decision.

5) Criminal Charges Pending

If it is determined that there are humanitarian grounds for granting favourable consideration to a person charged with a criminal offense, the request should not be submitted to the Governor-in-Council until the charges have been dealt with. If the person is later found to be guilty, the reasons for dealing with the case should be weighed against the inadmissibility and a decision taken on whether or not to allow the person to remain in Canada under a Minister's Permit until landing can occur.

9.11 PARAMETERS FOR THE EXERCISE OF DISCRETION

1) General

It is recognized that not all officers will react identically, every time, to any given situation. To ensure absolute consistency in recommendations, it would be necessary to provide guidelines which answer every eventuality. This is not possible, nor even desirable, as it would negate an officer's discretion under A114(2) as noted by Justice Jerome in the Yhap decision. In order to maintain an acceptable level of consistency, the following guidelines will apply.

2) Who May Exercise Discretion

Managers may limit the exercise of discretion to experienced officers only. Officers are also encouraged to seek advice from senior officials if they have any reason to believe that they could benefit from another person's experience. Although an Immigration officer's recommendation, whether positive or negative will normally be final, managers will monitor these recommendations to ensure consistency and to provide officers with counselling and further training.

3) Persons Reportable under A27(2)

a) If the person who makes a request under A114(2) is reportable under A27(2), officers must make the required report and submit it to an officer who holds the delegated authority to decide whether or not to direct an inquiry. The author of the report will inform the delegated officer of the content of the request under A114(2), make a recommendation on whether or not to hold the inquiry and state his or her recommendation on the case, i.e. whether or not the case merits favourable consideration.

b) Complying with the requirements of A27 does not interfere with the use of discretion for disposing of a request under A114(2). A decision on how to dispose of a request under A114(2) must take into account all known factors. Therefore, it is reasonable for the officer to determine how the duties imposed by A27 have been discharged and to take them into account in deciding whether a favourable recommendation to the Governor-in-Council will be made.

c) At the outset, the individual must be informed of the obligation imposed by A27 and of the possible results so as not to create a false expectation.

9.12 STEPS IN PROCESSING

1) Examination of Request

When a request for exemption from the visa requirement is made in Canada, officers will obtain a written statement from the person on IMM 1454, (see Appendix "F"), outlining the reasons and facts upon which the request is based, with supporting documents as necessary. The request can then be examined to determine whether there are reasons of public policy (see 9.06) or sufficient humanitarian and compassionate grounds (see 9.07) to warrant a request for visa exemption.

2) Approved Cases

a) Where a positive recommendation is made, a Minister's Permit should be issued, if necessary.

b) Prospective immigrants will complete an IMM 5001 and medical and background checks will be initiated. IMM 1344, if applicable, will be completed. The term "processed in Canada" will be

entered in the space provided for visa office particulars at the top of the IMM 1344. An IMM 1104 (see Appendix "M") will also be completed, but the selection criteria will, in all cases, be zero-filled (for independents) or left blank (for Family Class or Retired applicants).

c) The person will be informed that we are not accepting an application for permanent residence but simply processing a request for visa exemption. An application for permanent residence can only be considered if and when the visa exemption has been granted.

d) The sample letter in Appendix "A" should be given to all persons whose request for special consideration has been approved in principle.

e) Following a decision to seek a waiver of A9(1), requests for employment authorizations should receive sympathetic consideration (see R19(4)(i)).

f) An IMM 655 "Request for Special Authority from the Governor-in- Council" form will be completed and forwarded to the Order in Council section, NHQ. Procedures for completing the IMM 655 (see Appendix "G") should be followed (see IS 1.44).

3) Refusal to Consider from Within Canada

a) If the request is refused, the client will be informed in writing and the need to submit an application for permanent residence at a visa office explained.

b) A refusal by an immigration officer to submit a request for a visa exemption means there can be no application for landing made while in Canada and, where applicable, there can be no supporting sponsorship application.

9.13 SPARE

9.14 SPOUSES (see IE 9.07 2))

1) Who is Eligible?

a) Immigration policy is to deal sympathetically with requests from spouses of Canada residents where the marriage is genuine (see IS 2.32 "Relationship of Convenience").

b) Spouses seeking permanent residence at a port of entry, who are not in possession of an immigrant visa, will be reported under A20 in the normal manner. The SIO will then assess the relationship and, where the marriage is considered genuine, allow the spouse forward under a Minister's Permit. Further processing may be completed at the port of entry CIC or at an inland CIC.

c) There may be some cases of genuine marriages where the sponsor is under 18 and not yet eligible to submit an undertaking of assistance. These spouses should be allowed to remain in Canada until the sponsor can submit an IMM 1344.

2) Spouses Who Are Not Eligible

a) Notwithstanding the existence of a genuine marriage, officers are under no obligation to deal favourably with spouses who are inadmissible under A19 of the Immigration Act. (see 9.10 (4)).

b) As mentioned in IE 9.10 2), the onus is on the client, in this case the spouse, to satisfy the immigration officer that the marriage is genuine. As these cases do not involve an application for permanent residence but simply a request to have an application for permanent residence processed from within Canada, it is sufficient , in order to refuse to exercise discretion, that officers have a reasonable doubt about the bona fides of the marriage. Absolute proof is not necessary. When refusal is warranted, clients should be informed that their application will be assessed outside Canada.

b) These cases do not involve an application for permanent residence, but are simply a request to have an application for permanent residence processed from within Canada. Therefore it is sufficient in order to refuse to exercise discretion, that officers are satisfied on the balance of probabilities that the marriage was entered into for immigration purposes.

Please ensure that the words "reasonable doubt" are deleted from form refusal letters. Use instead "on the balance of probabilities" or other similar wording.

c) When assessing requests from spouses, officers should keep in mind the timing of the request. While a person at inquiry may seek consideration, the possibility that the marriage was entered into for immigration purposes (because removal may be imminent), has to be taken into consideration. Similarly, officers should carefully assess requests submitted by persons who have misrepresented themselves to a visa officer in order to obtain a visitor visa, or who have otherwise acted in bad faith.

d) Officers should always consult visa offices when in doubt about the bona fides of the marriage of a person who obtained a CVV abroad.

3) Situations Involving Marriage Breakdowns (To be read in conjunction with IE 9.18 1) and 2)).

a) When a sponsor withdraws a sponsorship undertaking prior to landing, normally as the result of a breakdown in the relationship, processing should cease. Officers will immediately contact the OIC section at NHQ who will determine if the request for an OIC has already been processed. If it has, the client has a right to be landed and should be landed on receipt of the OIC, provided he or she is not inadmissible (see also IE 9.18 2)). For example, if there is evidence that the marriage does not comply with R4(3) i.e., it was a marriage of convenience, the application can be refused A19(2)(d)for R4(3).

b) If the request has not yet been processed, the case will be reviewed to determine if the spouse can become successfully established and if there are compassionate or humanitarian considerations (see IE 9.07) which would warrant the continued processing of the case to landing.

c) The following factors should be examined in reviewing these cases. Meeting any one of these factors is not in itself reason to approve; rather, officers should assess the weight of all factors before making a decision:

i) In assessing potential establishment:

- does the client appear able to establish, based on previous education, training or employment?
- are there relatives in Canada willing and able to assist?
- what is the composition and disposition of sponsorable family members in Canada and abroad?

ii) In assessing potential humanitarian and compassionate grounds:

- was the marriage originally a bona fide one that merely failed due to incompatibility or was it entered into solely to circumvent the regulations?
- were there elements of fraud, misrepresentation or bad faith on the part of the applicant, e.g., the person came to the CIC's attention as a result of an investigation instead of reporting voluntarily?
- did the applicant suffer physical or mental cruelty in the relationship, e.g., the sponsor threatened withdrawal of sponsorship in order to keep the applicant subservient? Evidence of physical or mental abuse may contribute to the decision to process a case to landing, but should not in itself be a reason for landing someone. An option in these cases is for abused spouses to return home to the safety and security of their families.
- is the client pregnant?
- is there a Canadian child who would suffer if the client had to leave Canada?
- would return to the home country be merely a matter of inconvenience or would it result in severe economic and/or educational disruption to the person or to any family remaining in Canada?

– is there assistance available in the home country to help in resettlement?

d) Officers are encouraged to obtain background information on the persons involved and, if possible, on the cultural traditions and mores of their home country from the post abroad. An important factor that officers must consider in all cases is whether the person involved, or the relative in Canada, may become a public charge in Canada as a result of their decision.

e) If there are insufficient humanitarian and compassionate grounds for landing the person, the OIC section at NHQ should be asked to withdraw the name of the person from the list submitted to the Governor in Council and enforcement action initiated against the person.

f) Where there are sufficient humanitarian grounds, a new IMM 655 will be sent to the OIC section with a covering memorandum and the request will be processed on a priority basis. Alternatively, if the client's situation was reviewed within a few days, the OIC section will continue processing and the person will be landed when the OIC is approved.

9.15 ILLEGAL DE FACTO RESIDENTS (see IE 9.07 3))

1) Determination of Eligibility

There is a distinction between persons who are simply "long–term illegals" and those who are genuine "de facto residents". Generally, persons in the following situations would be considered de facto residents:

a) Persons who have never previously come to official immigration attention. Individuals such as unsuccessful refugee claimants in the Refugee Claims Backlog and persons under an unexecuted removal order do not qualify for this consideration;

b) Persons who are financially, socially and culturally established to the point where Canada, and not their country of origin, is their real home. It is expected that such a degree of establishment would take several years to achieve. Criteria to help determine if establishment has occurred are described in 3) below.

c) Evidence must exist that these persons would suffer undue hardship if compelled to leave Canada and seek immigrant visas in the normal manner.

Although persons who do not meet the above factors may not be illegal de facto residents, officers will nonetheless review their circumstances to determine if there are humanitarian and compassionate grounds to warrant favourable consideration.

2) Persons Who Are Not Eligible

Notwithstanding compliance with the above, officers should not generally approve requests for consideration made by the following persons:

Next page: 11

satisfied the candidate has satisfactorily performed the duties of the position, is residing in the employer's residence and has not come to the adverse attention of the CIC. If the employee is continuing with the same employer no new employer-worker agreement is required.

c) Where it had been determined that a first year assessment is required, the interview is to be based on factors described in Appendix "C" of IE 9. The client will be provided with a written record of the results of each assessment interview.

NOTE: See Chapter IS 14 re. terms and conditions for student authorizations issued to FDM clients.

d) An applicant who seeks to change employers will require an approved employer-worker agreement before a new employment authorization is granted. A change of employer should not in itself signal the need for an interview or an assessment at any point during the normal two year period of the program.

e) At the end of the applicant's second year, officers will do a complete and thorough assessment (without formally applying the point system), of the applicant's progress with a view to determining whether landing from within Canada is appropriate. Assessment is to be based on the factors described in Appendix "C".

f) i) Domestics who show evidence of ability to successfully establish should be informed that it is permissible now to request landing from within Canada. The applicant will be counselled regarding the landing procedures, and normal in-Canada processing can begin. The IMM 1102, without CEC validation or letter of confirmation (Code A01), is to be extended to enable the applicant to continue in employment until landing can take place.

ii) When the decision is made to process a request for landing, form IMM 1104 (see Appendix "H") must be completed (as a case initiated in Canada). However, units of assessment may be zero filled. In all cases, the OIC box on the IMM 1104 must be checked in order to proceed with the case.

g) Some domestics who have been approved for landing may indicate a desire to leave domestic work or take additional employment before landing has been accomplished. In such cases, generic employment authorizations may be issued pursuant to R19(4)(i).

h) i) If, at the second year assessment, it is evident that the applicant has not established, he or she will be informed, in writing, of the reasons for refusal and that, as consideration cannot be given towards landing in Canada, a final one-year extension of the IMM 1102 will be granted (on approved CEC validation), following which it is expected that departure from Canada will take place (see form letter at Appendix "E").

ii) When writing a refusal letter, use only those factors which are applicable in Appendix "C".

i) When a decision is made to proceed with or refuse the request for permanent residence, officers should advise domestics to discuss their situation with their employer so that, if necessary, employers will have sufficient time to arrange for alternate domestic help. Employers seeking advice on recruiting another domestic should be referred to the CEC.

j) CICs should keep a log of all refusals, indicating the following: Country of Last Permanent Residence, age, number of dependants, gender, and reasons for rejection.

4) Exceptional cases

a) i) All foreign domestics will have passed initial screening overseas (see IS 15.61) and been thoroughly counselled about the FDM and the procedures for obtaining permanent resident

status. Those individuals who are not approved for landing from within Canada, or who have no desire to remain in Canada permanently, should, generally speaking, only be permitted to remain in Canada for a three-year period.

ii) There may be cases, however, where the domestic does not indicate interest in remaining permanently in Canada until after the first year. If this occurs after the first year, but before the second year, the applicant should be given a first year assessment even though this means that the individual could accumulate a stay of just over three years.

iii) A domestic who indicates interest for the first time between the second and third year would immediately be given the second year assessment. If the decision regarding permanent residence is negative, the domestic should be counselled that further assessment of his/her qualifications will not take place and that extensions will not be granted beyond the three years.

b) As indicated in 4) g), domestics who are refused consideration for landing should be given a final one-year extension of the IMM 1102. Officers should remain firm on this time frame. There may be occasions, however, when between the second and third year the domestic makes a conscientious effort to upgrade his/her skills. If the change in qualifications is significant and the effort was bona fide, officers should be flexible in reassessing the case prior to the expiry of the IMM 1102.

c) There may be cases where although the decision has been made to refuse, an extension of the IMM 1102 may be warranted on humanitarian and compassionate grounds. If the grounds are sufficiently strong, extensions beyond three years may be granted provided both the domestic and the employer are fully counselled that this is for temporary purposes only, that long-term solutions should be arranged as soon as possible and that the extension is outside the parameters of the FDM program.

5) Completion of IMM 1000

The program identifier "FDM" must be entered in the Special Program space on form IMM 1000 when landing takes place. Pursuant to the Canada-Quebec Immigration Agreement, liaison with the SIQ as it normally applies to landings within Canada in the Province of Quebec will take place.

6) Domestics who are reported for Violations of Immigration Legislation

Domestics who are reported for infractions of the Immigration Act and Regulations or for criminal violations are to be treated in the same manner as would other visitors in Canada in the same situation (see IE 4 and IS 10). Applicants whose infractions are minor and who are issued a Minister's Permit to allow them to remain in Canada are still eligible for an assessment under the FDM criteria. The circumstances surrounding the infraction or violation may, however, have a bearing on whether or not approval to remain in Canada permanently would be given under the FDM.

7) Termination of Employment

a) There is no impediment to prevent domestics from changing jobs to satisfy their personal economic wishes. In addition, if there is a personality clash between the employer and the domestic, or if either one does not live up to the other's expectations, or if the employer is in breach of the terms of the employer-employee agreement, domestics are free to seek out other employment opportunities.

b) Domestics who request a new IMM 1102 because of a change in employer will be asked to provide a letter of reference from the previous employer before issuance of the IMM 1102. The letter of

reference should comment on the quality of the domestic's work and the reason for leaving the employment. Where domestics cannot obtain a letter of reference or are not prepared to ask for one, officers will contact the previous employer to inquire why the domestic left or was terminated. Officers will consider the circumstances presented by both parties before deciding whether or not to issue a new IMM 1102. If issued, the new IMM 1102 should be valid for 12 months.

c) Refusal to issue a new employment authorization should be based on evidence of an inability or unwillingness to perform satisfactorily, of misconduct or of gross incompetence on the part of the domestic.

d) The FDM program is premised on a two-year assessment period which provides an opportunity for candidates to work in Canada and to upgrade their skills. Nevertheless, there may be situations where domestics are dismissed from employment for reasons which lead an officer to believe that the domestic should not be allowed to complete the two-year assessment period and that he/she be required to leave Canada (e.g., child abuse, theft of employer's property, gross neglect, etc.). In such instances officers should fully investigate to insure the accuracy of the information, discuss it with the domestic, and, if on balance it is concluded that there are legitimate reasons not to allow the domestic to continue to work within the context of the program, the officer should prepare a report for review by the manager or supervisor. If the decision of the manager is not to approve a new employment authorization the domestic should be advised in writing of this fact and of the reasons that led to the decision. If the domestic fails to depart Canada within the period authorized or violates his/her status, normal enforcement action should follow.

e) Domestics who have quit their jobs for just cause or lost their employment through no fault of their own, and have not found other employment, will be provided with a letter which recognized the fact that they have reported as required (see Appendix "D"). The letter will request the CEC to assist the individual to locate new employment in the domestic occupation (CEC instructions are in the Employment manual (EA)).

8) Foreign Domestics Employed by Diplomatic Personnel (see IS 15.61(8))

9.17 SPARE

9.18 REFUSAL AFTER OIC SUBMISSION FORWARDED TO GOVERNOR-IN-COUNCIL

1) Action if Circumstances Change Before OIC Approved

a) If a ground of inadmissibility comes to light after the OIC request has been submitted, or the applicant's circumstances change, e.g. the sponsor withdraws the undertaking, officers will immediately inform the OIC section, NHQ. If the OIC has not yet been granted, the IMM 655 will be returned to the CIC who will then review the person's situation to determine if landing is still warranted.

b) If landing is warranted, a new IMM 655 will be forwarded directly to the OIC Section, NHQ, with a covering memorandum explaining the situation. The request will then be processed on a priority basis.

2) Action if OIC Already Approved

a) If the request cannot be retrieved and the requirement to comply with A9(1) is waived, it follows that the person no longer has to meet the requirements that are prerequisites to the issuance of a

visa, e.g., a sponsored spouse does not have to meet the requirement of R6(1)(b)(i) that his/her application be supported by an undertaking. Nevertheless, the beneficiary of the waiver is still subject to compliance with the requirements of the Immigration Act in order to be granted landing.

b) In practical terms, this means that, where an OIC has been approved to waive A9(1), immigration officers are under a duty to assess the application for permanent residence which came into effect upon approval of the OIC and either accept it or refuse it.

c) Refusal can be based on grounds of inadmissibility only, as opposed to grounds relating to the issuance of an immigrant visa. Until new procedures can be implemented, clients who are admissible will be landed notwithstanding the withdrawal of the sponsorship. The IMM 1000 of persons who applied as members of the Family Class will be coded as FC even if the sponsorship has been withdrawn, based on the fact that the withdrawal has no effect.

3) When Is Refusal Appropriate

a) Officers may refuse the application if the applicant is inadmissible, e.g. A19(1)(a), A19(1)(b), A19(1)(c), A19(2)(a) or even A19(2)(d) for R14(1) or R4(3), etc. (see IS 2 App. "M" for sample refusal letters). Refusal for inability to meet R4(3) is appropriate if new evidence in a spousal case indicates that the marriage was entered into for immigration purposes and not for the purpose of living together permanently. Inquiry action may be taken after the application for permanent residence has been refused.

b) The important distinction to make when contemplating refusal is the difference between admissibility of the applicant and the requirements pertaining strictly to processing of an immigrant visa, such as submission of an undertaking.

9.19 DEPENDANTS OF PERSONS SEEKING PERMANENT RESIDENCE IN CANADA

(see also IS 1.10)

1) Dependants abroad of an applicant in Canada must meet immigration requirements as a prerequisite to the landing of the parents or spouse in Canada (see R6(1)(a), R9(1)(a) and R10(1)(a)). When processing a request for permanent residence from within Canada, officers must ensure that all dependants (see R2 for definition) are examined.

2) These dependants cannot, however, be issued visas as they do not meet the definition of "accompanying dependants" of the principal applicant. Their admission has to be brought about by sponsorship, except in those few cases where dependants are allowed forward under Minister's Permit and subsequently landed by Order in Council.

9.20 INADMISSIBILITY ON SECURITY GROUNDS

(To be read in conjunction with IS 1.14 - Security Screening of Immigrants).

Note: Elements of the security screening process have been exempted from public access in accordance with the terms of sections 15 and 16 of the Access to Information Act. Visa officers abroad and immigration officers in Canada should read these guidelines in conjunction with the restricted (Protected B) chapter IC 1.

1) All Cases Not Passed to be Reviewed by NHQ

All cases involving NOT Passed Security Screening decisions must be reviewed at NHQ before a final decision is rendered. It should be noted that this review procedure pertains only to cases where there is

adverse security information. The review is carried out by the Operational Intelligence and Security Directorate, Enforcement Branch, and involves weighing the adverse security information against other considerations (e.g., humanitarian and compassionate grounds, public policy). Depending on the circumstances, a particular case may be referred to the Interdepartmental Committee on Immigration Applicants (IDC) before a recommendation is made to the Minister, CEIC.

2) Interdepartmental Committee on Immigration

The IDC is comprised of senior officials from the Privy Council Office, CSIS, the Department of External Affairs and CEIC. The Committee reviews the adverse security information in cases (usually family class and assisted relative) and makes a recommendation for or against the application to the Minister.

3) Operational Intelligence and Security Directorate

If necessary, the Operational Intelligence and Security Directorate will request additional details on the case from the Post/CIC concerned. When providing this information, officers should not hesitate to make Operational Intelligence and Security aware of any factors that may warrant consideration. When the review has been completed, Operational Intelligence and Security will instruct the Post/CIC accordingly.

9.21 – ON SPARES

Appendix "A"
Sample Letter to Person Whose Request For Permanent Residence has Received Approval-in-Principle

(Reference at IE 9.12(2))

To: Client
Address

Your request for a visa exemption has received approval-in-principle and will be sent to the Governor-in-Council for a final determination.

It must be understood that granting of a visa exemption does not exclude you from meeting other normal immigrant requirements, and an application for permanent residence can only be considered if and when the visa exemption has been granted. The fact that administrative activities have been initiated, such as completion of a form requesting permanent residence and a medical examination, is not to be considered as final approval of the request for permanent residence. These administrative activities are merely designed to expedite final processing should the visa exemption be granted.

If you intend to leave Canada, you should advise this office before your departure. In some cases your request to the Governor-in-Council may be withdrawn and you will be required to obtain your immigrant visa outside of Canada in the normal manner. Arrangements would then be made to forward your file to the visa office responsible for the area where you will be residing and they will in turn contact you to initiate processing. We cannot guarantee you re-entry to Canada. Should you seek entry in the future you will be subject to meeting the usual requirements applicable to visitors or immigrants, depending on your purpose in coming to Canada.

We will contact you when the Governor-in-Council has exempted you from the requirement to obtain an immigrant visa from outside Canada.

For Manager
CIC

Note: This is a specimen letter with suggested wording. Preference as to final wording, and the use of word-processors to produce "original" letters at the local office level (in lieu of pre-printed form letters) is left to the discretion of local managers as long as the original intent is not changed. Any office using pre-printed form letters (i.e. not on a word-processor) must be guided by CEIC "Forms Management Policy" (see Appendix "B" of Chapter IA 7).

Appendix "B"
Letter Of Referral For CEC Counselling

(Reference at IE 9.16 1)a))

File #

To: Manager
Canada Employment Centre

Name of person, _____.

address_____, is a participant in the Foreign Domestic Movement. I am referring her/his for CEC counselling as it appears she/he would benefit from skills upgrading.

After the counselling session, please return this letter with the results of the CEC interview.

For Manager
CIC

Results of CEC interview:

Note: This is a specimen letter with suggested wording. Preference as to final wording, and the use of word-processors to produce "original" letters at the local office level (in lieu of pre-printed form letters) is left to the discretion of local managers as long as the original intent is not changed. Any office using pre-printed form letters (i.e. not on a word-processor) must be guided by CEIC "Forms Management Policy" (see Appendix "B" of Chapter IA 7).

Appendix "C"

Foreign Domestic Program
- Evaluation Of Domestics For Landing In Canada

(References at IE 9.16 (3))

To assist immigration officers in their evaluation of whether a domestic has, or is reasonably likely to become successfully established and self-sufficient, officers should be guided by the following factors. These factors are intended only as a guide and cannot stand independent from other information or considerations which may arise as a final determination on admissibility to Canada.

A. Experience

A satisfactory employment history as a domestic or household worker in Canada will be mandatory. The domestic will be expected to have completed a minimum of two years satisfactorily rated employment in a domestic occupation prior to receiving favourable consideration for permanent residence. Although not mandatory, letters of reference or employer interviews can assist in evaluating this factor.

B. Language

The domestic will be expected to possess a written and spoken language capability appropriate to the duties of the occupation in either official language. Also, any progress in language proficiency since arrival can be regarded as a significant indicator of actual or potential successful establishment.

C. Financial Security

Domestics are expected to be capable of managing their financial situation. In order to assess whether domestics can manage their financial affairs, immigration officers will need to consider earnings, expenses, other financial responsibilities towards dependants and financial assistance from relatives in Canada (especially in the event of temporary unemployment or other disruption of continued income).

D. Skill Upgrading

Of significance under this factor is whether the domestic has successfully completed any skill upgrading or training courses during the period of stay in Canada when it was advised that such was necessary during the counselling interviews. Such courses may be as a result of formal employer/employee agreements or undertaken at the initiative of the domestic. It will be expected that such courses would result in an improvement in the domestic's ability to perform the duties of the current occupation; however, the development or upgrading of non-related or latent skills should also be acknowledged, particularly as they may relate to alternate employment which may be pursued in the future. The successful completion of any such course should be documented by presentation of certificates or attendance records. Of course, the above is based on the assumption that upgrading was required. It may very well be that the person's qualifications were initially strong enough that the requirements for landing can be met without specific upgrading.

E. Social Adaptation

It will normally be expected that domestics will have made some effort to adapt to and integrate into the larger community in which they work and reside. This factor will vary among individuals and cannot be expected to manifest itself in a manner which can be easily measured or standardized. The officer should note whether the domestic has established any contact or interaction within the community through membership in ethnic, cultural, religious or recreational organizations. This may also be evident in more personal or individual ways such as an interest in current events or development of a hobby, craft or skill.

F. Personal Suitability

On the basis of an interview, the immigration officer should evaluate the personal suitability of the domestic for permanent residence based on adaptability, motivation, initiative, resourcefulness and other similar qualities.

G. Dependants

A factor which must be considered in evaluating the prospect of successful establishment is the existence of dependent family members residing outside of Canada who may be coming to Canada to join the applicant. The responsibilities which the domestic will undertake with regard to accommodation, care and maintenance of such dependent family members may be significant, particularly in the case of prospective immigrant spouses and minor children or which adequate maintenance may be required. The admission of such dependants may have a negative impact on the successful financial establishment of the domestic/sponsor; however, if such dependants intend to immediately enter the labour force, this may be a positive influence on the domestic/sponsor's establishment. CIC officers should refrain from requesting job offers for the dependants of domestics.

CONCLUSION

It is expected that these guidelines will assist immigration officers in making a fair evaluation of a domestic's settlement prospects and arriving at a judgment whether or not permanent residence should be granted under the Foreign Domestic Program. While satisfactory employment experience and skill upgrading may be identified as the most significant factors of evaluation, it would be expected that a satisfactory rating on the majority of the factors would normally indicate successful establishment in Canada or an acceptable potential to do so. In the final analysis, it is the individual immigration officer's assessment, based on all the factors and information which is considered relevant, which will determine approval or refusal of landing.

Appendix "D"

Letter To Be Given To Domestic Eligible For CEC Placement Service

(Reference at 9.16 7)e))

Date:

To: Manager
Canada Employment Centre

_____ , entered Canada on an Employment Authorization valid until
Name of Client

_____. She/he was employed as a domestic by:

Name and Address of Employer: _____

_____

Since she/he has reported to this office as required and has left her/his employment for valid reasons, I ask that you make placement services available to her/him. We are prepared to issue a new Employment Authorization on receipt of a validated employer/employee agreement.

Yours very truly,

For Manager
Canada Immigration Centre

Note: This is a specimen letter with suggested wording. Preference as to final wording, and the use of word-processors to produce "original" letters at the local office level (in lieu of pre-printed form letters) is left to the discretion of local managers as long as the original intent is not changed. Any office using pre-printed form letters (i.e. not on a word-processor) must be guided by CEIC "Forms Management Policy" (see Appendix "B" of Chapter IA 7).

Appendix "E"

Foreign Domestic Refusal Letter In Canada

(Reference at 9.16 3)i))

Date:

Dear Client:

I am writing with respect to your request for permanent residence in Canada which you recently made under the provisions of the Foreign Domestic Movement.

As you are aware, permission to apply for permanent resident status from within Canada may be granted to those foreign domestics who can demonstrate that they have performed satisfactorily during their employment history, have integrated into the community and have successfully established in Canada.

After a careful and sympathetic review of your request for special consideration, it has been concluded that you do not meet the requirements for approval under the Foreign Domestic Movement. We will, therefore, not be seeking an exemption from the Governor-in-Council to waive the requirement that you apply for an immigrant visa abroad. Without first obtaining such an exemption, there is no provision to apply for permanent residence from within Canada.

This decision was based on a number of factors and information which you have presented at interview. The areas in Which you fall short of the requirements of the Foreign Domestic Movement include:

a) your performance during your employment as a domestic in Canada is unsatisfactory;

b) your language capability is not sufficient for your chosen occupation;

c) you have been unable to provide a reasonable proposal for financial planning;

d) you have not provided proof of sufficient upgrading of your skills during your stay in Canada as you were counselled to do during previous counselling interviews;

e) you have made little effort to integrate into the community;

f) you have not demonstrated the qualities of adaptability, motivation, initiative or resourcefulness which are necessary for successful self-establishment;

g) you have not demonstrated evidence of your ability to provide for the dependent family members you intend to bring to Canada.

It is noted that you presently have status until (date). You will be requested to effect your departure by this date, as no further extension request will be considered. Failure to comply may result in the Commission initiating enforcement action against you. You should inform your employer of your departure date so that suitable arrangements can be made to find your replacement, if necessary.

Thank you for the interest you have shown in Canada and I regret that my reply could not be more favourable.

Yours truly,

Manager
Canada Immigration Centre

Note: This is a specimen letter with suggested wording. Preference as to final wording, and the use of word-processors to produce "original" letters at the local office level (in lieu of pre-printed form letters) is left to the discretion of local managers as long as the original intent is not changed. Any office using pre-printed form letters (i.e. not on a word-processor) must be guided by CEIC "Forms Management Policy" (see Appendix "B" of Chapter IA 7).

Appendix "F"
Sample of Form IMM 1454

(Reference at 9.12 1))

Employment and Immigration Canada | Emploi et Immigration Canada

REQUEST FOR CONSIDERATION BY THE GOVERNOR - IN - COUNCIL OF CANADA PURSUANT TO SUBSECTION 114 (2) OF THE IMMIGRATION ACT
DEMANDE DE RÉEXAMEN PAR LE GOUVERNEUR EN CONSEIL DU CANADA CONFORMEMENT AU PARAGRAPHE 114 (2) DE LA LOI SUR L'IMMIGRATION

I, / M. _____ BORN ON THE / NÉ LE _____
(NAME IN FULL) (NOM AU COMPLET) (DATE OF BIRTH) (DATE DE NAISSANCE)

AT / À _____
(PLACE AND COUNTRY OF BIRTH) (LIEU ET PAYS DE NAISSANCE)

RESIDENT AT / RÉSIDANT AU _____
(FULL ADDRESS IN COUNTRY OF RESIDENCE) (ADRESSE COMPLÈTE DANS LE PAYS DE RÉSIDENCE)

PRESENTLY DOMICILED AT / ACTUELLEMENT DOMICILIÉ AU _____
(ADDRESS IN CANADA) (ADRESSE AU CANADA)

HEREBY REQUEST HIS EXCELLENCY, THE GOVERNOR GENERAL IN COUNCIL, TO FACILITATE MY ADMISSION TO CANADA AS A PERMANENT RESIDENT BY GRANTING ME AN EXEMPTION FROM THE REQUIREMENT OF SECTION 9 OF THE IMMIGRATION ACT, DUE TO THE EXISTENCE OF COMPASSIONATE OR HUMANITARIAN CONSIDERATIONS
DEMANDE PAR LA PRÉSENTE À SON EXCELLENCE LE GOUVERNEUR GÉNÉRAL EN CONSEIL DE FACILITER MON ADMISSION AU CANADA EN TANT QUE RÉSIDENT PERMANENT EN ME DISPENSANT DES PRESCRIPTIONS DE L'ARTICLE 9 DE LA LOI SUR L'IMMIGRATION POUR DES RAISONS D'ORDRE HUMANITAIRE

THE REASON(S) FOR MY REQUEST IS / ARE
VOICI LE OU LES MOTIFS JUSTIFIANT MA DEMANDE

(PLEASE USE THIS SPACE AND / OR THE REVERSE OF THIS FORM TO PROVIDE ANY COMMENTS THAT YOU WISH TO MAKE IN SUPPORT OF YOUR REQUEST. ANY DOCUMENTATION / SUBMISSIONS WHICH YOU HAVE IN SUPPORT OF THIS REQUEST ARE TO BE ATTACHED TO THIS FORM AND PRESENTED TO THE IMMIGRATION COUNSELLOR AT THE TIME OF YOUR INTERVIEW)
(VEUILLEZ UTILISER CET ESPACE ET AU BESOIN LE VERSO DE CE FORMULAIRE POUR NOUS FAIRE PART DE TOUT ÉLÉMENT SUSCEPTIBLE D'APPUYER VOTRE DEMANDE. TOUS LES DOCUMENTS PERTINENTS DOIVENT ÊTRE JOINTS À CE FORMULAIRE ET PRÉSENTÉS AU CONSEILLER EN IMMIGRATION PENDANT VOTRE ENTREVUE.)

☐ I CONCUR WITH REQUEST / *JE CONSIDÈRE LA DEMANDE FONDÉE*
☐ I DO NOT CONCUR WITH REQUEST / *JE CONSIDÈRE LA DEMANDE NON FONDÉE*

RATIONALE - RAISONS

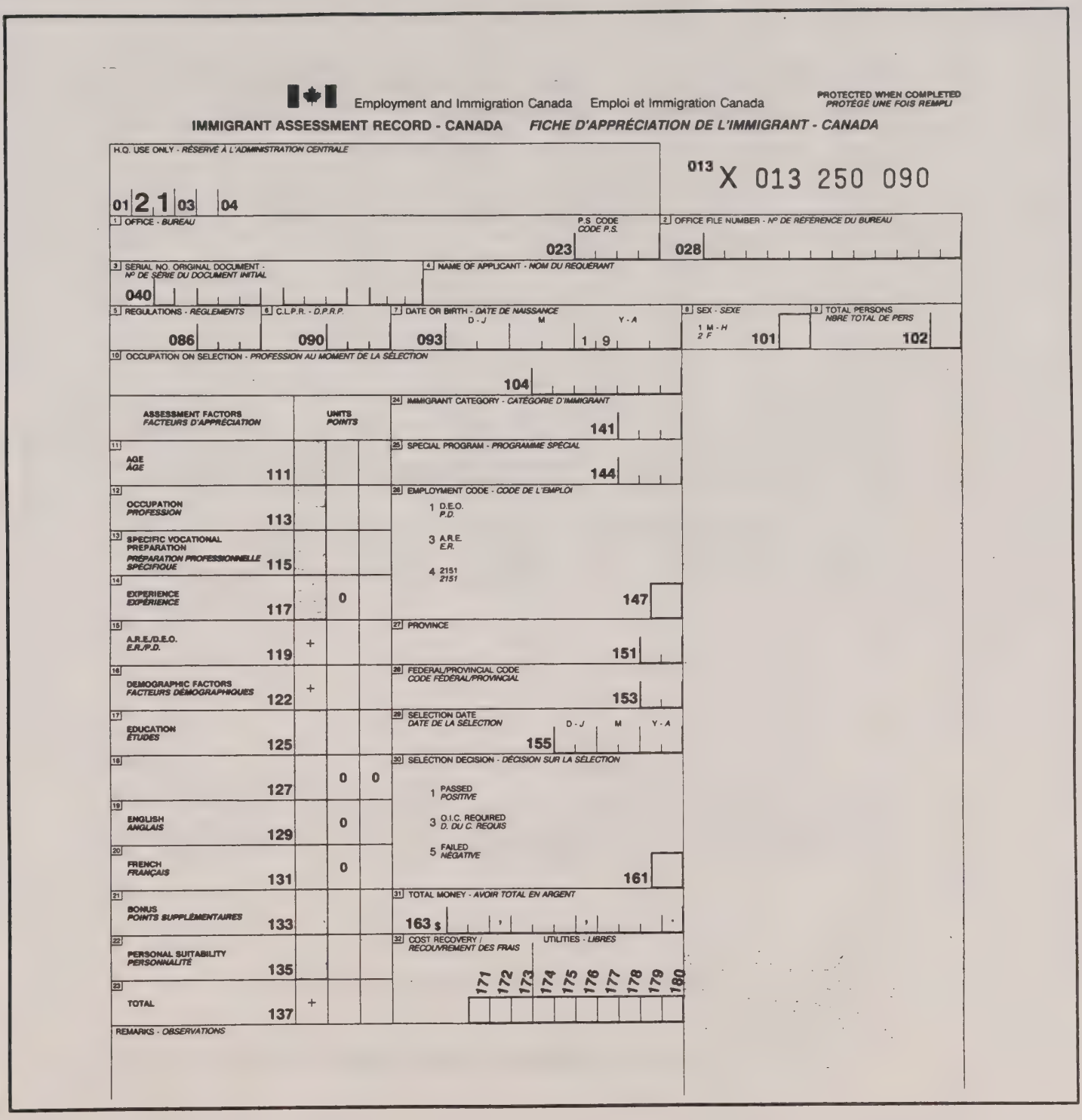
SIGNATURE OF IMMIGRATION OFFICER / SIGNATURE DE L'AGENT D'IMMIGRATION
DATE

IMM 1454 IP - P (88-88) E

Canada

Appendix "G"
Sample of Form IMM 1104

(Reference at 9.12 2)b))



Employment and Immigration Canada Emploi et Immigration Canada

PROTECTED WHEN COMPLETED
PROTÉGÉ UNE FOIS REMPLI

IMMIGRANT ASSESSMENT RECORD - CANADA *FICHE D'APPRÉCIATION DE L'IMMIGRANT - CANADA*

H.Q. USE ONLY - *RÉSERVÉ À L'ADMINISTRATION CENTRALE*

013 X 013 250 090

01 2 1 03 04

1 OFFICE - *BUREAU* | P.S. CODE *CODE P.S.* 023 | 2 OFFICE FILE NUMBER - *Nº DE RÉFÉRENCE DU BUREAU* 028

3 SERIAL NO. ORIGINAL DOCUMENT - *Nº DE SÉRIE DU DOCUMENT INITIAL* 040 | 4 NAME OF APPLICANT - *NOM DU REQUÉRANT*

5 REGULATIONS - *RÈGLEMENTS* 086 | 6 C.L.P.R. - *D.P.R.P.* 090 | 7 DATE OF BIRTH - *DATE DE NAISSANCE* D-J M Y-A 093 1 9 | 8 SEX - *SEXE* 1 M-H 2 F 101 | 9 TOTAL PERSONS *NBRE TOTAL DE PERS* 102

10 OCCUPATION ON SELECTION - *PROFESSION AU MOMENT DE LA SÉLECTION* 104

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11 AGE *ÂGE*	111			
12 OCCUPATION *PROFESSION*	113			
13 SPECIFIC VOCATIONAL PREPARATION *PRÉPARATION PROFESSIONNELLE SPÉCIFIQUE*	115			
14 EXPERIENCE *EXPÉRIENCE*	117		0	
15 A.R.E./D.E.O. *E.R./P.D.*	119	+		
16 DEMOGRAPHIC FACTORS *FACTEURS DÉMOGRAPHIQUES*	122	+		
17 EDUCATION *ÉTUDES*	125			
18	127		0	0
19 ENGLISH *ANGLAIS*	129		0	
20 FRENCH *FRANÇAIS*	131		0	
21 BONUS *POINTS SUPPLÉMENTAIRES*	133			
22 PERSONAL SUITABILITY *PERSONNALITÉ*	135			
23 TOTAL	137	+		

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26 EMPLOYMENT CODE - *CODE DE L'EMPLOI*
1 D.E.O. *P.D.*
3 A.R.E. *E.R.*
4 2151 *2151*
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30 SELECTION DECISION - *DÉCISION SUR LA SÉLECTION*
1 PASSED *POSITIVE*
3 O.I.C. REQUIRED *D. DU C. REQUIS*
5 FAILED *NÉGATIVE*
161

31 TOTAL MONEY - *AVOIR TOTAL EN ARGENT* 163 $, , .

32 COST RECOVERY / *RECOUVREMENT DES FRAIS* | UTILITIES - *LIBRES*
171 172 173 174 175 176 177 178 179 180

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Appendix "H"
Sample of Form IMM 655

(Reference at 9.12 2)f))

Employment and Immigration Canada / Emploi et Immigration Canada

REQUEST FOR SPECIAL AUTHORITY FROM THE GOVERNOR-IN-COUNCIL
DEMANDE D'AUTORISATION SPÉCIALE AU GOUVERNEUR EN CONSEIL

NAME OF ORIGINATING OFFICE – *NOM DU BUREAU D'ORIGINE*	ORIGINATING OFFICE FILE NO. *N° DE RÉF. DU BUREAU D'ORIGINE*	NHQ FILE NO. (IF KNOWN) *N° DE RÉF. DE L'AC (S'IL EST CONNU)*

PART A — ***PARTIE A***

Surname *Nom*	Given Names *Prénom(s)*	DOB *DDN*	Sex *Sexe*	Marital Status *État matrimonial*	Citizenship *Citoyenneté*	Country of Birth *Pays de naissance*	Country of Present Residence *Pays actuel de résidence*	Passport Valid to *Passeport valide jusqu'au*

PART B — ***PARTIE B***

I recommend that authority be sought from the governor-in-council on behalf of the person(s) listed in Part A above to waive the requirements of the Immigration:

Je recommande que soit demandée au gouverneur en conseil l'autorisation de dispenser les personnes énumérées dans la Partie A ci-dessus des exigences relatives à l'immigration:

ACT – *LOI* | AND/OR REGULATIONS – *ET/OU RÉGLEMENT*

☐ 9(1) Visa | ☐ 14(1) Passport *Passeport* | ☐ 9(1)(a) Independent *Indépendant* | ☐ 9(1)(b) Self Employed *Travailleur autonome* | ☐ 9(1)(c) Entrepreneur | ☐ 9(1)(e) Retired *Retraité* | ☐ Other *Autre*

REMARKS AND/OR RECOMMENDATION — *OBSERVATIONS ET/OU RECOMMANDATIONS*

DATE _____ IMMIGRATION OFFICER *AGENT D'IMMIGRATION* _____

PART C – TO BE COMPLETED ONLY AT NHQ — ***PARTIE C – RÉSERVÉE À L'AC***

Date Authorized/*Autorisé le* (Order-in-Council Stamp/*Timbre du décret du conseil*) ACT – *LOI*	Date Authorized/*Autorisé le* (Order-in-Council Stamp/*Timbre du décret du conseil*) REGULATIONS – *RÈGLEMENT*	Order-in-Council Valid Until *Décret du conseil valide jusqu'au*

This form has been established by the Minister of Employment and Immigration – *Formulaire établi par le Ministre de l'Emploi et de l'Immigration*

Canada

IMM 655 VP - I (10-89) E

DIRECTOR GENERAL, CASE MANAGEMENT, IMMIGRATION, N.H.Q.
DIRECTEUR GÉNÉRAL, DIRECTION DU RÈGLEMENT DES CAS, IMMIGRATION, AC 1



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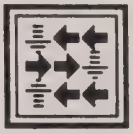
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CHAPTER 10

INVESTIGATIONS, ARREST AND DETENTION

SYMBOLS

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IE 10 Acronyms	
CCC	Criminal Code of Canada
CEC	Canada Employment Centre
CIC	Canada Immigration Centre
CPIC	Canadian Police Information Centre
CPO	Case Presenting Officer
FOSS	Field Operational Support System
IRB	Immigration and Refugee Board
IS	Immigration Selection and Control Manual
NHQ	National Headquarters
QRC	Query Response Centre
SIO	Senior Immigration Officer
USINS	United States Immigration and Naturalization Services



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A27(1)	Report on permanent residents
A27(2)	Report on visitors and other persons
A90	Rights of immigration officers
A103	Warrant for arrest
A104	Failure to comply
A105	Where person in institution
A106	Authority to execute warrants and orders
A110	Authority of immigration officers
A111	Oaths and evidence
A115	Powers of Minister

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Criminal Code of Canada: 25, 26, 27, 28, 29, 36.

10.01 OBJECTIVES

1) Protect the Health and Safety of Canadian Society

The two objectives of the Immigration Act which form the basis of the enforcement program are the need to maintain and protect the health, safety and good order of Canadian society and the need to promote international order and justice by denying the use of Canadian territory to persons who are likely to engage in criminal activity.

2) Protect Canada's Security and Economic Interests

Due to changing world economic conditions, rising international tensions and global population growth, Canada is continuing to experience increasing migration pressures. In order to meet these challenges, it has become increasingly important to pursue effective immigration policies which reflect our economic interests, respect our social objectives of family reunification and honour Canada's humanitarian commitments for refugees and displaced persons. It is equally important in order to protect these positive aims, to minimize abuse of the process, and to protect Canada's security, that there be an effective Immigration enforcement and control program. We have the obligation to continue to develop an enforcement stance that will meet these challenges, yet be implemented in a way which will minimize the risk to Immigration officers involved in the enforcement of the Act.

10.02 – 10.04 SPARES

GUIDELINES

10.05 THE INVESTIGATION FUNCTION

1) National Joint Review Group on Safety and Security

The National Joint Review Group on Safety and Security of Immigration Staff, in its final report, recommended that a clear statement of the Commission's expectations with respect to the application of the enforcement aspects of the Act should be issued. To that end, a Commission policy on enforcement and on investigations has been instituted.

2) Proactive Enforcement Strategy

The underlying stance of the enforcement program is a proactive enforcement strategy. The proactive approach is demonstrated by the stance which the Commission takes in relation to establishing measures which will prevent violations of the legislation. In particular, managers should ensure that the CIC plays an active role in community law enforcement activity. This can be accomplished by promoting police liaison activities, and by developing training and educational programs to increase the level of awareness of the police, other government agencies, and the public.

3) Reactive Approach

An integral part of this enforcement strategy is a reactive approach to the handling of individual cases which recognizes the constraints on a civilian organization with enforcement functions. Officers are to perform investigations only in response to information coming to their attention concerning contravention of the legislation. Officers do not initiate exploratory investigative visits which are not based on sound research and analysis. Managers are expected to identify local objectives and to develop strategies to attain these aims. These strategies should be supported by good intelligence and information, careful analysis (IMM 1426 is used to monitor these activities), maintenance of community and specialized contacts, excellent police liaison and promotion of community awareness, understanding and support, all of which create a greater deterrent in the community.

10.06 COMPORTMENT AND ATTITUDE OF THE INVESTIGATOR

1) Conduct Investigations in a Professional and Courteous Manner

The functions associated with investigative activities are the most difficult an immigration officer is required to perform. Officers performing investigations are constantly on public display, are involved in the intricacies of various Acts of Parliament and the Common Law, and are frequently called upon to make quick and correct decisions without the benefit of supervisory personnel being immediately at hand. Officers are expected to conduct investigations in a professional and courteous manner, and with the strictest possible respect for human rights and freedoms, while attempting to maintain the physical safety of officers, clients and the general public.

2) Civil or Criminal Proceedings

Officers who overstep their authority are open to civil or criminal proceedings against themselves or the Commission. In that the Courts have consistently found immigration proceedings to be of a civil and not

criminal nature, the Courts will expect a high standard of behaviour from immigration officers. However, officers should know that as long as they are acting in good faith and have reasonable grounds for their actions and do not go beyond the limit of their legal authority, they will have the full support of the Commission.

10.07 IMMIGRATION OFFICER'S ROLE

1) Duties

a) The Immigration Act is silent on the actual investigations activity. Rather, it provides certain authorities to immigration and senior immigration officers. As a result of the provision of authorities in the matters of arrest, detention, reporting and removal, the position of investigator has evolved. In some CIC's, there is a need for full-time permanent investigator positions. In other offices where the volume of enforcement cases is less and there are correspondingly fewer officer positions, the work of the investigator is often combined with counselling duties. In both situations the officer must be cognizant of the responsibilities of the position, the powers and authorities as prescribed by law, and the limits of the officer as a peace officer performing Immigration-related duties.

b) The role of investigator involves the following responsibilities:

i) to investigate, identify, locate and formally report persons who appear to be in violation of the Immigration Act and Regulations;

ii) to arrest and detain persons alleged to have violated the Act who are believed to pose a danger to the public or who would not likely appear for examination, inquiry or removal pursuant to the appropriate sections of the Immigration Act;

iii) to develop and maintain contacts with, and provide technical service, guidance and training to enforcement agencies, the courts, government and non-government agencies to promote the effective and efficient application of the Immigration Act and program;

iv) to identify, collect, analyze and disseminate information from a variety of sources concerning illegal immigration, rackets, terrorists or subversive organizations; and

v) to ensure all functions carried out in the performance of duties under the Act are conducted in a safe and secure manner.

2) Powers and Obligations

The following enforcement-related powers conferred upon Immigration officers by the Act apply to all officers, not only investigations officers.

a) A27 - The obligation to make a written, detailed report to the Deputy Minister or delegate when a person has contravened the Act.

b) A90 - The power to board vehicles bringing persons to Canada, to examine any person or document and to seize and detain a vehicle until the inspection examination has been completed.

c) AI03 - Where the officer is of the opinion the person poses a danger to the public or would not appear for examination, inquiry or removal, the power to arrest with or without a warrant a person who has contravened the Act, and the requirement to bring the person before a senior immigration officer.

d) AI04 - The power to take into custody and hold in detention a person who has violated the conditions of release imposed under the Act.

e) AI05 - The power to take into custody a person who has become an inmate of an institution pursuant to a court order, at the expiration of the term of confinement.

f) AI06 - The power to confer upon the recipient (of a warrant or order) his/her own powers of arrest and detention.

g) AII0(I) - The powers of a peace officer to apply the Act and Regulations as well as warrants, orders or directives made under the Act and Regulations respecting the arrest, detention or removal from Canada of any person.

(See "Immigration Officers' Authority as Peace Officers" in the following section).

h) AII0(2)(a) - The authority to require persons making an application under subsection I6(I), persons who are arrested under section I03 and persons against whom a removal order has been made, to comply with such regulations as are prescribed providing for their identification.

i) A110(2)(b) - The authority to seize and hold any travel document as required to facilitate the carrying out any provision of the Act and Regulations.

j) AII0(2)(c) - The authority to seize and hold any travel document if believed to be fraudulently obtained.

k) AII0(3) - The authority to employ temporary assistants as deemed necessary to enable the officer to carry out his/her duties under the Act and Regulations.

l) AIII - The authority to administer oaths and to receive evidence on any matter arising in connection with the Act.

3) Authority as Peace Officers

a) Section 2(c) of the Canadian Criminal Code defines "peace officer" as "a police officer, police constable, bailiff, constable or other person employed for the preservation and maintenance of the public peace for the service or execution of civil process".

b) Although the peace officer definition in the Criminal Code does not specifically mention immigration officers, there are a number of legal precedents in which the definition was interpreted to include public officials, such as immigration officials, performing their duties. Furthermore, convictions for assaulting a peace officer have been obtained in cases involving immigration officers. However, this does not mean that immigration officers are peace officers in the same sense as police officers, i.e. enforcers of the Criminal Code. Although full protection of immigration officers as peace officers is accorded under the law, the powers and authority of immigration officers as peace officers have been limited under AIII(I) to the enforcement of the provisions of the Immigration Act and Regulations, and to orders or directions made under the Act and Regulations, respecting the arrest, detention or removal from Canada of any persons.

c) Section 25 of the Criminal Code provides protection for immigration officers performing the functions they are authorized to perform by law, i.e., relating to the arrest, detention or removal from Canada of any person, provided the officer is acting in good faith and on reasonable grounds. Although the Criminal Code permits the carrying of weapons by immigration officers, it is the Commission's policy that under no circumstances are officers to be in possession of firearms while on duty.

4) Safety and Security Officers

a) Immigration officers are entrusted with some duties performed by police officers, such as arrest and detention. These and other duties are potentially dangerous to the officer's personal safety.

b) Immigration officers are not obliged to perform their duties in a situation where they determine a threat to their safety exists. It has been and shall continue to be the policy of this Commission that officers shall withdraw from a dangerous or potentially dangerous situation, and shall rely on the support of police forces in such situations. Officers have the discretion to withdraw from such a situation, and will not receive criticism for not executing their duty.

c) It is in the officer's best interests, however, to be well-equipped in order to reduce the risk. For example, officers should be appropriately trained in investigative techniques such as interviewing and questioning, search and arrest, and defusing confrontations.

d) Officers who are experienced in resolving encounters with difficult clients develop greater confidence in their approach to situations. An officer who has an extensive knowledge of relevant legislation and is sure of locally-approved procedures will have the advantage of added confidence in approaching the task at hand.

e) There are steps that every officer must take when completing A27 Reports on persons who exhibit violent or unstable behaviour. It is imperative to clearly document on case files any difficulties experienced with the subject, and especially any available history of the person's behaviour. This will assist the case presenting officer who must be aware of inherent risks in order to arrange for a safe inquiry setting. Such persons should not be brought to CIC's if alternative arrangements can be made at detention centres or other institutions.

10.08 - 10.10 SPARES

10.11 INVESTIGATIONS

I) What is an investigation?

a) Investigation is a necessary pre-condition to the provisions in the Act relating to arrest, detention, report-writing, removal and prosecution. It applies also to the activities of case preparing and case presenting which are not prescribed in the legislation. Investigations may take different forms, from telephone calls to knocking on doors, but all investigations have a common intent - the gathering of information for purposes related to the enforcement of the Act and Regulations.

b) Setting Objectives

i) The inland control segment of our enforcement strategy is expected to be well-established by managers in CIC's and regional headquarters. Following from this, supervisors of investigations units, together with managers, should be developing their program for investigations. This involves establishing goals and instituting a prioritization system for conducting investigations.

ii) The underlying investigations program should be based on carefully devised plans which call for officers to respond to information that either comes to their attention or is a result of their own efforts. Officers should be using this information to achieve the following basic objectives:

- locate the person who had violated the legislation;
- be able to identify and define the violation; and
- follow through the subsequent steps of the case by gathering necessary information, preparing and submitting a report, and assisting the case presenting officer, as required.

c) Prioritizing

i) Investigations should never be arbitrary, but rather should be a response to information or circumstances which give rise to know ledge, or at least a reasonable suspicion, of a contravention of the Act or Regulations.

ii) The following factors should be considered when establishing the investigator's priority list:

- The gravity of the alleged infraction. This means that the seriousness of the violation may be categorized, for example the sections of the Act involving criminality would likely be considered a more serious violation than a simple overstay. However, gravity of the violation is one consideration the importance of which must be measured against the other factors.
- The source of the information received. Officers will develop contacts that prove to be reliable along with other reputable sources, for example other CIC's, police agencies, other government departments and agencies, etc. With experience, officers will be able to distinguish reliable sources from unreliable ones.
- The quality of the information. An officer may receive excellent information which will assist in the speedy investigation of less serious violations. Therefore, the quality of the information on occasion may influence the officer to devote more time to pursuing solid evidence of less serious violations.

d) Strategy

i) The officer must be able to determine how the information at hand can be used to attain the overall objectives of the immigration program. For example, if violations related to "danger to public health" are a high priority in the overall scheme, then this will influence the priority the officer will place on information which becomes available.

ii) In their planning of an investigations strategy, managers must be aware of trends, locally and nationally. In a study of the illegal migrant movement, it was found that approximately 55% of the population found to be in Canada illegally, for reasons basically other than criminal, was working without authorization. Therefore, a clear national objective emerges which should be incorporated into local objective-setting. One of our principal obligations is our responsibility to reduce the number of persons who are found to be working without authorization. This could take the form of an organized plan of visits to employers who have a record of hiring illegal workers, in order to verify that they are respecting the rules concerning the hiring of non-residents, and to find those who are hiring persons not authorized to work.

iii) Managers should also take the initiative to develop quantitative measurement and analysis of enforcement and control problem areas. This is directly related to the preventative approach and would be helpful in identifying areas of concern in order to enhance community awareness and act as a deterrent.

2) Information Gathering

a) There are two ways of obtaining information on which to base investigations:

i) proactive methods (including computer systems); and

ii) reactive means.

b) Proactive methods:

i) Each CIC's investigative strategy can be comprised of several initiatives. We are obliged to develop and maintain solid contacts with police agencies (they are more fully described be-

low), to inform and educate these agencies in our legislation and their role in the application of these laws. We should see that mechanisms are in place to ensure that individuals arrested by the police, who may be of concern to the Commission, are brought to our attention.

ii) Other parts of CEIC may be helpful, such as CEC's, or CPO units which could provide the names of subjects who have not appeared for inquiries. As well, other government departments who come into con tact with our clients, such as Citizenship and Revenue Canada, USINS and international law enforcement agencies, and accredited foreign government missions may all be excellent sources of information.

iii)
- In order to allow officers to quickly identify persons found to be in violation of the legislation, the Commission has developed the Field Operational Support System (FOSS) as well as the Immigration microfiche which is used as a supplement to FOSS at ports of entry and offices outside Canada. FOSS is updated daily from four feeder systems, namely the Visitor, Landed Immigration and Enforcement Data Systems and the Enforcement Information Index. Officers should refer to the FOSS III User Guide. The names of all persons who are to be investigated regarding their immigration status must be checked through FOSS. The information contained in FOSS may be invaluable in ensuring the safety of an officer while performing investigations, or preventing embarrassing or delicate situations.
- In establishing the methods by which such persons will become known to CEIC, officers should be guided by the Ledeuff case, a decision of an Appeal Tribunal of the Human Rights Commission. A subjective signal such as a name is not to be used either as a source for status checks, or as the basis for initiating oral or written communication with an individual. The use of sources such as arrest reports, court dockets or any other information which comes to our attention in the normal course of liaison with law enforcement agencies is permissible as long as the signal for the status check is an objective one; for example, birth outside Canada or claimed citizenship other than Canadian.

c) Reactive means:

i) There are various sources of unsolicited information to which the officer must react, either by initiating an investigation, seeking further substantiation, or disregarding it. These sources include:

- the general public
- informants calling or attending a CIC
- the subject's friends, family, co-workers
- employers

ii) The information provided by these sources may arrive anonymously or from an identified source. The motives of the source are often unclear, and care must be taken on deciding a course of action based on its value. The officer should try to get the informant to identify him/herself as the credibility of information received increases with the willingness of informant to identify him/herself. The informant should understand that there will be no favours or payment for information provided. It is important to keep a good record of all conversations in the event a detailed report is required at a later date.

3) Police Liaison

a) During the normal course of work, immigration officers may require assistance from a police organization. The type of police force with which CEIC liaises depends on such factors as geographical location of the CIC and the jurisdiction under which a situation falls.

b) The jurisdiction of the various police forces varies according to the legislation for which they are responsible, such as customs officers, fisheries officers, military and railway police. Of all the forces, the Royal Canadian Mounted Police (RCMP), provincial and municipal police are the agencies with which our officers most often liaise.

c) RCMP (Federal):

i) As Canada's federal police organization, the RCMP operates in all provinces to enforce those federal statutes for which it has policing responsibility. Some of the statutes which relate to our work and which are enforced by the RCMP include the Immigration Act, the Narcotics Control Act, the Customs Act, the Excise Act and the Food and Drugs Act. RCMP officers have the powers of a peace officer and those of a customs and excise officer for the whole of Canada. It is the only police force in our country with such authority.

ii) In addition, through contracts the RCMP provides provincial and municipal police services to eight provinces, the Yukon, the Northwest Territories and 191 municipalities.

iii) The RCMP is ultimately responsible to the Solicitor General of Canada.

iv) A Memorandum of Understanding was concluded with the RCMP in 1984 respecting investigations and prosecutions conducted under the Immigration Act, 1976.

v) Without restricting Immigration's own investigations, the RCMP may investigate and prosecute offences listed in Section 94 to 99 without the prior concurrence of the Commission as long as consultations take place as soon as possible when it a) appears that unfavourable public reaction will develop or b) when it appears that any CEIC employee may have committed an offence under the Immigration Act. The RCMP must however notify the Commission about all Immigration investigations and prosecutions which they initiate.

vi) Consultations which take place concerning media interest will be between the regional officer in charge of the Immigration and Passport Section and regionally designated positions in the Commission. In addition, the Commission shall refer offences under the Immigration Act to the RCMP for investigation and possible prosecution. The RCMP and the Commission may agree to joint action to investigate organized circumventions of the Act.

vii) The Privacy Act allows RCMP conducting immigration investigations access to Immigration case files and copies of official documents from Immigration records. The Commission must notify the RCMP prior to the deportation of persons with serious criminal records or outstanding charges against them.

viii) Conversely, RCMP will obtain for the Commission Canadian and foreign criminal records and information for the Commission's assessment of the inadmissibility of persons. Canadian Police Information Centre (CPIC) will be available concerning persons under Immigration investigation or warrant, and RCMP will assist Commission officials in their dealings with violent and dangerous persons i.e., in investigation, arrest or removal.

ix) The agreement also authorizes RCMP to act as Immigration Officers at designated isolated posts where no Immigration Officer is appointed because of the limited traffic.

d) Provincial Police:

i) Ontario and Quebec are the only two provinces in Canada that have their own provincial forces. In Ontario, it is the Ontario Provincial Police (OPP) and in Quebec, the Quebec Police Force (QPF).

ii) The provincial police forces are responsible for the enforcement of the federal and provincial statutes in their respective provinces and municipal by-laws where the provincial force is contracted to provide municipal police services. In other words, the provincial police is responsible for policing all the parts of the province including municipalities or parts thereof where no distinct municipal force is maintained.

iii) The Ontario Police Act provides that under certain conditions the Ontario Provincial Police may police municipalities and that force acts as a municipal police in several towns in the province. In Quebec, there is no provision for its provincial police to enter into contract for the policing of municipalities. However, it may be directed by the Attorney-General, where he considers it in the public interest, to take over for a limited time the direction of policing in any municipality in Quebec.

e) Municipal Police:

Each city and town is responsible for the policing of and maintenance of law and order within its jurisdiction and for providing and maintaining an adequate police force in accordance with the police needs of the community. In larger communities, this responsibility is carried out by municipal police whereas new or smaller communities may rely on contracts with the provincial police.

f) Police Assistance:

i) It has been the experience of the Commission to have come to depend on these agencies for certain types of assistance. In particular, the following responsibilities can normally be expected from the appropriate police agency:

- Transport detainees to detention centres or jails.
- Provide security in a geographical area through their presence or regular patrols.
- Participate in investigations.
- Assist in dangerous situations such as where assaults or any other potentially violent incidents may occur.
- Provide protection in case of disturbances e.g. sit-ins.
- Lay charges under sections 94, 95 and 96 of the Immigration Act.
- Provide assistance on escorts.
- Provide fingerprinting and photographic expertise.
- CPIC information.
- Lab analysis respecting suspected spurious passports and other documents.
- Refer cases of convictions under federal statutes to CEIC (Section 27 of the Immigration Act).

ii) The assistance and co-operation we receive from the police is necessarily a function of our own comportment and attitude. We have an obligation to contribute to and maintain the healthy working relationships which have developed through our liaisons with the various agencies.

iii) We do not participate in police "raids", conducted for police reasons (except where we are asked to assist as resource persons where it is suspected that there may be Immigration violations) nor do we suggest to a police force to conduct a raid for Immigration purposes. Our responsibility is to react to information brought to our attention in regards to specific cases. Local office managers have the responsibility to assess the appropriateness of any Immigration participation in police activities and its possible con sequences for the integrity of the program.

iv) We should be concerned with maintaining our credibility with our colleagues in police forces. For example, when the police execute our warrants, we should respond promptly and in a manner that acknowledges the police efforts in locating persons of interest to us. Telephone instructions to the police officer may suffice in exceptional circumstances but normally a more personal response is called for.

v) Investigations officers who suspect danger arising from a planned investigation should be accompanied by police officer(s). In the instance where police assistance will be delayed, the investigation should be postponed until a time when the officer will be accompanied. Officers must never deem it necessary to place them selves in a position of danger.

vi) In order to benefit best from available police support, it is imperative that each office acquaint itself with the nature and level of services the police in the community is able to provide, and determine the local procedures which may be required to access those services.

vii) From time to time immigration staff are approached by officials of law enforcement agencies with a request to "assist" that agency in one of its investigations. The nature of this assistance could be a request for deferral of enforcement action, the granting of an extension of status, or the issuance of a Permit in order that the agency can continue surveillance or otherwise continue to obtain information from the party concerned.

viii) It is the policy of the Commission to cooperate with law enforcement agencies whenever possible, particularly when such cooperation may in the longer term assist in the prevention of serious crime. However, when so approached, officers must bring the request to the attention of the CIC Manager who in turn, must obtain approval of the request from regional officials. It is imperative that officers not enter into secret arrangements with police officials without the approval of senior managers and that any assistance rendered be strictly in accordance with the Immigration Act.

ix) Regional officials are requested to ensure that the Director General, Enforcement Branch is informed of any case which may become publicly contentious.

x) Should the need arise to assess the level of police assistance, a form exists at each regional headquarters which has been designed to collect data relating to frequency, purpose and response time to calls for police assistance. It is known that most CIC's receive appropriate levels of service, but should some concern arise, this form will assist in documenting specific instances.

g) Canadian Police Information Centre

The CPIC system stores and distributes information on the identity of persons sought by enforcement agencies in Canada. This system, used in conjunction with FOSS, is a tool that should not replace the investigative functions performed by immigration officers. All appropriate steps to locate the person should be made before entering a name into CPIC. Officers should ensure the prompt removal of names of individuals who have been detected. (See IC 4.l0 and IC 4.27).

h) Liaison with the RCMP/CSIS: Criminal-Related Inquiries

i) Countries Other than the United States

When an immigration office in Canada wishes to have criminal-related inquiries conducted in countries other than the United States (see ii) below) to confirm, for example, the presence abroad of a person wanted in Canada or to ascertain the existence of, or obtain a copy of, a criminal record, the query is to be sent to the address indicated in IC 1, APP. "A", together with FPS (Fingerprint System) numbers as available:

ii) United States

Immigration officers may continue informal direct liaison with members of United States police agencies. In addition, if an office requires criminal documents respecting a person in Canada, and the office is aware of the location in the USA where the person was convicted, the office should contact directly the police agency concerned. If, however, it is not known where the person was convicted, or if in fact there are any convictions, then the office should write to the RCMP as above. The information that the RCMP receives from the FBI in such cases is not releasable, but it can be used, if necessary, to identify the police department and its location where detailed information may be obtained by our offices directly.

4) Pursuit Across the US/Canada Border

a) Pursuit across the US/Canada international boundary by law enforcement officers of either country is a contravention of international law.

b) CIC officers will not become involved in jurisdictional disputes with US police but will notify local Canadian police authorities so they can pursue the matter. Incidents should also be reported through the Regional Directors/Director General, Immigration to the Director General, Enforcement Branch, who will apprise External Affairs of the situation for whatever action they deem appropriate.

5) Questioning

A12(4) requires persons to answer truthfully all questions asked by an immigration officer at an examination and A94(g) and (h) provide penalties for refusing to answer questions or making false or misleading statements at an examination or inquiry. There is, however, nothing in the Act to compel an individual who is being investigated to answer questions nor can a person be arrested merely for questioning. Officers must never attempt to secure answers to questions by means of a promise of favours or through threats or coercion. If a person refuses to answer questions about his/her status, but the immigration officer has reasonable grounds to believe that he/she is a person described in AI03(2), then the person may be arrested without warrant for inquiry or removal from Canada. However, officers should remember that refusing to answer questions is not in itself reasonable grounds to arrest without warrant, and without the reasonable grounds for arrest, the individual may not be arrested.

6) Entering Private Premises

a) There are three main reasons why an immigration officer may wish to enter a private dwelling during the course of his/her duties:

i) To investigate information concerning an individual whose identity or status is unknown.

Officers often receive information concerning an illegal allegedly residing at a particular address. Generally there is insufficient additional information, i.e., correct name, status and

background, to permit the issuance of a warrant. Officers may therefore wish to question the persons at a particular dwelling place to clarify the status of the alleged illegal. In such instances, officers can only enter private premises by consent of the occupant. If officers are asked to leave, they must do so or their presence becomes a trespass.

ii) To arrest an individual under the authority of the Immigration Act.

- Officers may enter private premises to perform an arrest if consent is granted by the occupant. The Supreme Court has ruled that there is no unrestricted right for a peace officer to enter a private dwelling in search of a fugitive. In matters which pertain to the civil process, i.e., arrests under the Immigration Act, it is not clear from a legal standpoint that there is any authority to enter if the door is barred. If the door is not barred, there is authority to enter, but if the dwelling is that of a third party and the person sought is not present, then the officer may be found guilty of trespass. If there is a doubt about the legality of entering a house if the door is barred it is recommended that the officer should not enter.
- In addition to the legal risk involved, the possibility exists that forced entry may be met with physical resistance. It is the policy of the Commission not to force entry to private premises to make an arrest. If officers are exercising a warrant and they are certain that the individual they seek is inside and entry has been denied, then they should request police assistance. In some instances, the presence of a uniformed police officer may assist officers in obtaining permission from the occupants to open the door.

iii) To secure a travel document. Should a person under arrest request that an officer enter the private premises to secure a travel document, then the proper procedure is to obtain the written consent of the person concerned, where the person cannot accompany the officer, to:

- enter the premises; and
- secure the specific document.

The written consent is valid only to enter that person's dwelling and not someone else's.

b) To avoid subsequent malicious charges of theft, etc., the above action should only be undertaken if two officers are present. Where feasible, the officer should encourage the landlord/owner of the premises to remain present.

7) Search of Private Premises

a) Evidence for Inquiry or Examination

The Immigration Act provides no authority to search private premises for the purpose of obtaining evidence. It should be remembered that illegal search is tantamount to trespass and may result in damages being awarded to the injured party.

b) Prosecutions under A94

Search for evidence of an offence under A94 may only be conducted if a search warrant is first obtained by the RCMP, who handle all prosecutions under the Immigration Act. It should be noted that the courts would find it improper to obtain a search warrant under the guise of searching for evidence with respect to an offence under A94 when what is really intended is to search for illegal aliens or evidence for an inquiry or examination.

8) **Seizure of Documents (AII0(2)(b) and (c))**

a) Paragraph AII0(2)b) consists of two parts. The first part describes the kind of document which may be seized or held, i.e. "... any travel or other document that may be used for the purpose of determining whether a person may be granted admission or may come into Canada ...". The second part describes when such action may be taken, i.e. "... where an immigration officer has reasonable grounds to believe that such action is required to facilitate the carrying out of any provision of the Act or the Regulations ...". This means that an inland investigating officer may seize a passport or other travel document of a person who is arrested or otherwise must appear for inquiry or removal if he/she has "reasonable grounds".

b) The phrase "required to facilitate the carrying out of any provision of this Act or the Regulations", is not to be regarded as providing authority for Immigration officers to seize documents, especially travel documents, for the sake of mere convenience. Travel documents should be seized and retained only in cases where:

i) the person concerned has been arrested under the Immigration Act; or

ii) the person concerned is detained for inquiry or removal; or

iii) there is cause for concern that the person may deliberately "lose" or destroy the document in order to prevent or delay his/her removal from Canada; or

iv) the travel document itself or a visa or port stamp contained therein is known to be, or is strongly suspected of being fraudulent.

c) Any identifying or other information contained in the passport or travel document that is necessary for the carrying out of an investigation or conducting a status check should be recorded and the document returned to the holder.

d) The provisions of AII0 must not be taken as authority to search for documents. Officers who have reasonable grounds to believe that a document has been fraudulently or improperly obtained, or have reasonable grounds to believe that the document is required to facilitate the carrying out of any provision of the Immigration Act or Regulations, may seize the document only if the document is visible to the officer. The intent of AII0(2)(b) is to allow officers to retain documents, which are visible, of persons who have been arrested or are to report for inquiry or an examination. Persons may also consent to producing a document which then becomes subject to seizure. Officers should remember, however, that at some time they could be called upon to satisfy the courts that the document was in fact made available by consent. Seized documents should be kept safely stored at the local office. Receipts of seized documents should always be provided to the holder. The return of seized documents seized documents on completion of immigration action is covered in R49. In inland cases, seized documents will be returned to the owner or the proper issuing authority, either upon removal or when a decision is made to allow the person to remain in Canada.

e) In accordance with AII0(2)(c), an immigration officer may also seize and hold any passport, travel or identity document, or any other document in the possession of any person in Canada if he/she has reasonable grounds to believe that such documents have been fraudulently or improperly obtained or used or that such action is necessary to prevent the fraudulent or improper use of such documents. Officers are responsible for any documents in their possession. If an officer takes possession of personal documents (e.g. airline tickets) for the purpose of photocopying or recording information, the documents should be promptly returned to the holder.

10.12 SPARE

10.13 OBLIGATION TO SUBMIT A27 REPORTS (See 10.26 also)

The Immigration Act requires that an immigration officer or peace officer submit a report to the Deputy Minister where he/she has in his possession information concerning a permanent resident or visitor described in paragraphs A27(l) and (2). The Deputy Minister or his designate may, upon receiving the report and if he/she considers that an inquiry is warranted, issue a direction for inquiry and the person concerned will be requested to appear for inquiry. The only exemption from submitting a Report in 27(2) cases occurs where the person has been arrested without warrant pursuant to Al03. The working document becomes the IMM l285 (Notice of Arrest).

10.14 PROTECTION OF OFFICERS ACTING UNDER THE AUTHORITY OF THE CRIMINAL CODE

The Criminal Code of Canada offers the following protection and responsibilities to officers who are performing activities respecting the arrest, detention and removal from Canada of any person:

1) **Use of Force**

   a) Section 25(l) CCC – A peace officer is justified in using force only if:

      i) he is in the lawful execution of his duty;

      ii) he acts on reasonable and probable grounds;

      iii) he uses only as much force as is necessary.

   b) Section 25(2) CCC – A peace officer is justified in executing a defective warrant if:

      i) he is in the lawful execution of his duty;

      ii) he acts in good faith.

   c) Section 25(4) CCC – A peace officer is justified in using force to prevent the escape of a person he is attempting to arrest if:

      i) he is in the lawful execution of his duty;

      ii) he uses the least violent reasonable means.

   d) Section 26 CCC – Everyone who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

2) **False Arrest**

   a) Section 28(l) CCC – A peace officer is protected from criminal responsibility in respect of the arrest of a wrong person if:

      i) he is authorized to execute the warrant;

      ii) he acts on reasonable and probable grounds;

      iii) he acts in good faith that the person he arrests is the person named on the warrant.

   b) Section 28(2) CCC – Where a person is authorized to execute a warrant to arrest,

      i) every one who, being called upon to assist him, believes that the person in whose arrest he is called upon to assist is the person named in the warrant, and

      ii) every keeper of a prison who is required to receive and detain a person who he believes has been arrested under the warrant,

      (is protected from the criminal responsibility in respect thereof to the same extent as if that person were the person named in the warrant.)

c) Section 37(l) CCC - Everyone is justified in using force to defend himself or anyone under his protection from assault, if he uses no more force than is necessary to prevent the assault or the repetition of it.

Officers must therefore have reasonable grounds to justify any use of force when performing their duties and that force should be kept to a minimum. No attempt to describe specific examples regarding the use of force could hope to cover all possible situations. The important thing is that as long as an officer is able to justify his or her actions in accordance with the provisions of the Criminal Code, these actions will be supported.

If the officer deems it necessary, handcuffs can be utilized to restrain a detained person. They should be used only when the officer believes the person is otherwise likely to escape or is losing self-control to the point of attempting to inflict injury on him/herself or others. Officers should exercise good judgement and common sense in contemplating the use of handcuffs.

While the Criminal Code confers protection from criminal charges should false arrest occur, officers may nevertheless be open to civil suit. It is therefore important that every possible precaution be taken to prevent such occurrences.

10.15 ARREST

l) Arrest With and Without Warrant

a) An immigration officer may arrest without warrant for inquiry or for removal (refer to Al03(2)) a person who, in the opinion of the officer, poses a danger to the public or would not otherwise appear for inquiry or removal. A senior immigration officer may issue a Warrant for Arrest (see App. "K") and Detention (refer to Al03(l)) where, in his/her opinion, the person poses a danger or would not otherwise appear for examination, inquiry or removal.

b) The power to arrest and detain is a serious matter involving restraints on liberty and civil rights, and one that is limited by the grounds of "danger to the public" or "unlikely to appear". Officers should consider arresting only after the other alternatives have been explored and found to be inappropriate.

c) The mere words "You are under arrest" are sufficient to constitute an arrest in law if the person arrested acquiesces. In the absence of acquiescence, there must be an actual touching of the person. Arrest necessarily connotes detention, but detention does not necessarily connote arrest (refer to IE 2.73).

d) The standards for arrest without a warrant are no different than those for arrest with a warrant. The reasons for arrest must be clearly documented on file as the officer may be called upon at any time to justify the grounds on which the decision to arrest were based. If there are no reasonable grounds to believe the person would not appear for inquiry or removal, or is a danger, then proper procedure is to convoke the individual to appear at a CIC and to submit a report pursuant to A27.

2) Responsibilities Under the Criminal Code

a) Immigration officers performing arrests are individually responsible for observing the following procedures of the Criminal Code:

i) 29(l) "It is the duty of everyone who executes a process or warrant to have it with him, where it is feasible to do so, and to produce it when requested to do so."

ii) 29(2) "It is the duty of everyone who arrests a person, whether with or without warrant, to give notice to that person, where it is feasible to do so, of:

- the process or warrant under which he makes the arrest, or
- the reason for the arrest."

iii) 29(3) "Failure to comply with subsections l) or 2) does not of itself deprive a person who executes a process or warrant, or a person who makes an arrest, or those who assist them, of protection from criminal responsibility".

b) Although the Criminal Code provides protection to officers under 29 3) in instances of non-compliance with 29 l) and 29 2), the Commission expects officers to comply with 29 l) and 29 2) whenever possible.

3) Reasonable Grounds

Before an arrest is made pursuant to AI03(2)a), the officer concerned must have more than a hunch or a mere suspicion that the person falls within one of the grounds referred to in that section. The words "reasonable grounds" are the key words; unless reasonable grounds exist, there is no authority to arrest without a warrant. Reasonable grounds can aptly be described as a set of facts and circumstances which would satisfy an ordinarily cautious and prudent person and which are more than mere suspicion. The burden of proving reasonable grounds rests with the officer. A good rule of thumb to use would be to ask oneself: "If I am challenged in court to demonstrate that I had reasonable grounds to suspect the person was one referred to in AI03(2)a), would my reasons withstand the scrutiny of the court?" Nor is it enough to say that one believed that the person was described in A27(2)b) and A27(2)e) to j). The officer must have reasonable grounds to believe that the person is described in a specific paragraph (or paragraphs). The lack of particularity as to the precise suspected violation could lead the courts to conclude that there were no actual grounds for such an arrest and that there had occurred an abuse of the authority contained in AI03(2). In addition to meeting the requirement for reasonable grounds mentioned above, officers must also have reason to formulate the opinion that the person poses a danger to the public or is considered unlikely to appear for inquiry or removal from Canada.

10.16 SPARE

10.17 SEARCH OF PERSONS

1) Peace Officer May Search an Arrested Person

Although there is no provision in the Act that authorizes an officer to make a personal search, the necessity and right of an officer to search has long been recognized and supported by the courts and is now well entrenched in common law. The courts have ruled that a peace officer may search an arrested person and may remove from that person any items falling into the following three categories:

a) anything with which a person might injure him/herself or others;

b) any weapon or implement which might assist in the person's escape;

c) anything that can be considered as evidence in respect of the violation for which the person has been arrested.

2) Reasons for a Search

Section 8 of the Canadian Charter of Rights and Freedoms provides that "Everyone has the right to be secure against unreasonable search or seizure". The test for reasonableness of the search is whether the officer has reasonable grounds to believe that a threat to security of the person, the officer or any other person existed. The threat to security may be described as a situation such as that where an officer believes the person is hiding an item which could be used to injure self or others or which could be used to facilitate an escape.

3) Policy In Regards to Searching

Commission policy in regards to search has been and continues to be that where a person has been arrested or detained pursuant to the Immigration Act, that person is to be searched.

4) Violant Behaviour of Persons Under Investigation

In the course of their work, officers deal with various types of clientele, and at any time may be faced with a subject whose behaviour is unstable, incoherent or violent. Where the subject is not under arrest or detention, the officer should isolate the person from spectators and then call for police assistance. This is not a situation in which an immigration officer should search the subject, as there has not yet been an arrest or a detention.

10.18 – 10.19 SPARES

PROCEDURES

10.20 OBJECTIVES OF INVESTIGATIONS OFFICERS

As stated above, in accordance with locally-determined investigative strategies, the investigations officer has three basic objectives:

locate the person who has violated the legislation;

identify and define the violation;

take appropriate action by gathering the necessary information, preparing and submitting a report, and assisting the case presenting officer, as required.

1) Locate the Person

a) To locate the person who has violated the Immigration Act, the officer uses the available techniques such as careful examination of information (files, complaints, etc.), use of investigative mechanisms (computer systems, telephone directories, other government departments) and personal contacts which might be made on the telephone or by personal visits (with co-workers, neighbours, friends, relatives, employers, former employers).

b) The officer should have a good knowledge of relevant legislation, such as Access to Information laws, which will help the officer to decide what type of information is accessible for investigative duties. As well, a basic understanding of cross-cultural practices is an asset as there are many varied customs and lifestyles encountered during investigations. The officer will need to use judgement and analysis in order to determine the value of contacts, and the best course of action to take.

2) Identify the Offence

It is necessary to determine whether a violation has been committed. The various parts of section 27, and the other sections under which proceedings may be instituted, must be understood. Usually an offence is determined to have been committed when the subject confesses after having been located, or upon examination of the file or documents by the investigating officer. As the subject may not admit readily to the offence, the officer must be skilled in questioning techniques in order to uncover the facts. The subject of an investigation is not required to answer questions and no one can be arrested solely to answer questions. The skills required include the ability to interview quickly and efficiently often under difficult conditions, such as in the person's home with other persons in attendance or at a place of employment.

3) Take Appropriate Action

a) Once the subject has been located, and the offence identified, the officer must determine the appropriate action. If the officer is of the opinion that the person concerned is described in A27(l) or (2), he/she is required to submit a report. Instruments I-26 and I-27 provide the delegated authority to receive the report. The officer shall record all pertinent details on the case file in order to assist the case presenting officer should the case go to inquiry.

b) The appropriate action may include arrest without warrant, or the recommendation to a senior immigration officer to arrest with a warrant. If the officer decides to arrest, the decision must then be made whether to proceed without police assistance. An assessment has to be made of the conditions, and the person's behaviour and physical abilities, and should the officer determine that assistance is required, then the closest police presence must be called in.

10.21 INTERVIEWING

1) Questioning

a) Officers conduct interviews during the course of investigations in order to obtain necessary information about a subject, either from the subject directly or from a third party.

b) Officers develop their own preferred style of asking questions during an interview. When determining their strategy, they should keep in mind the desired outcome, that is the nature of the information to be elicited from the subject. The type of information may be specific (e.g. date of coming to Canada, current address, etc.) or an elaboration or description of events (e.g., events that lead to improper securing of a SIN card).

c) The means and methods of questioning (the way, and how questions are posed) should be planned. The way the question is asked refers to the tone, body language, etc., accompanying the verbal expression. The how refers to the actual phrases used to elicit further information.

d) There are several ways to pose a question, each creating a climate for different kinds of responses. They include:

i) Closed – e.g. Do you have a valid passport?

ii) Open-ended – e.g. Why didn't you leave Canada when your permit expired?

iii) Leading – e.g. You knew you were not allowed to work in Canada, didn't you?

iv) Rephrasing – e.g. You were advised to report to an Immigration office?

v) Recapping – e.g. So far you've stated ... .

vi) Clarifying – e.g. I'm not sure I understand ... .

e) Each format provides a valuable use to the officer by eliciting information needed to locate the person or identify the violation.

f) In assessing the subject's response, there are various things to look for which will assist the officer in interpreting signs or body language. Officers should become familiar with the meaning of the way the subject sits, stands, holds hands, etc. All signs should be considered in total, not individually, as any gesture could be meaningful.

2) Note-taking

a) During an interview, the officer must record in a notebook all that transpires in order to refresh his or her memory at a later date, for example when preparing a report, and to form the basis of the officer's testimony if called upon to testify at inquiry or in Court. The notebook forms an essential tool for the investigator and other enforcement officers.

b) The notebook should contain only information which relates to work (i.e. no personal information). It should be readable and understandable, and the statements contained therein should be fact, not inference or evaluative statements. Times and dates of assignments or interviews, and names and addresses of persons concerned and others must be recorded clearly and accurately. The useful phrase who, what, where, when, why and how should be applied when recording notes. An officer should maintain complete notes, recording in chronological order and in detail, all matters involving Immigration activities encountered while on duty.

c) The Investigator's Notebook (IMM 5104) is a "record" within the meaning of the Access to Information Act, and contains personal information within the meaning of the Privacy Act. Further, the notebook has been determined to be a record under the control of a government department, i.e.

CEIC, and subject to such exemptions under the Access to Information Act as may apply in individual cases. All of this means that when recording information in notebooks, officers should be mindful of the fact that should a request under the Access to Information Act be made to gain access to an individual's case file, the request would also include access to the notebook. If officers follow the guidelines in b) above, they should not be concerned if the contents of the notebook are released.

10.22 COUNSELLING TO LEAVE CANADA

1) Leave Canada Before Inquiry

There appears to be nothing unlawful in an immigration officer advising a person who is in breach of the Act that he/she may leave Canada before a direction for inquiry has been issued. However, once an inquiry has been directed, an immigration officer may be in contravention of A98(b) if he/she counsels a person to leave the country and thereby elude inquiry.

2) Right to an Inquiry Before an Adjudicator

A person who is deemed to have violated the Act has the right to an inquiry before an adjudicator and persons should not be counselled to leave and forego this right. Where the person indicates that he/she wishes to leave voluntarily and where the inquiry does not involve a serious ground for removal, the officer should not object if the person arranges departure.

10.23 EXCHANGE OF INFORMATION AND INVESTIGATIVE COOPERATION – IMMIGRATION/ UNEMPLOYMENT INSURANCE BENEFIT PROGRAMS

I) Investigations

a) In cases of offences or suspected offences under the Immigration Act, the Unemployment Insurance Act, 1971 and the other statutes administered by the Commission, Immigration Counsellors and Investigators and Benefit Programs' Investigation and Control Officers in all geographic areas will cooperate with one another for the purpose of their respective legislation. This may involve investigations regarding employers employing persons illegally or persons illegally in Canada trying to fraudulently obtain Benefit Programs' monies.

b) Unlike immigration officers, Benefit Programs' Investigation and Control Officers are not authorized under the Immigration Act to, among other things, arrest and detain individuals. As a result, the authority of Benefit Programs' Investigation and Control Officers to assist Immigration officials is to be limited to the role of investigation, i.e. to obtain or ascertain information as requested by Immigration in cases where it is clearly in the best interest of the Commission to have such duties carried out by these officers. This should generally take place where CECs are located in areas not easily accessible to Immigration Counsellors or Investigators. This activity will normally involve identifying persons or groups suspected of contravening the Immigration Act or obtaining evidence for legal proceedings.

c) Benefit Programs' Investigation and Control Officers in all geographic areas will report to local CICs any suspected or known offences under the Immigration Act. Conversely, Immigration Counsellors and Investigators will report to CECs any suspected or known offences to Benefit Programs' legislation.

2) Exchange of Information

a) When visitors or persons illegally in Canada are identified as receiving or having received Benefit Programs' monies to which they are (were) not entitled, the Immigration Query Response Centre (QRC) in Ottawa or the local CIC may be queried as to their whereabouts.

b) The probability of locating a suspect in the files of the QRC is increased in proportion to the amount of identity information available. As a result, when contacting the QRC, as much of the following information as possible should be provided: suspect's complete name, date of birth, alleged status under the Immigration Act, SI Number and approximate date of entry to Canada. The QRC may be contacted by telex number 053-4825 or by surface mail (IMM 5009) at:

Query Response Centre,
CEIC,
National Headquarters,
OTTAWA, Ontario
KIA 0J9

c) In order to identify and locate persons in violation or suspected to be in violation of the Immigration Act or persons illegally in Canada, CECs will provide CICs with any information they may have on these individuals. Immigration personnel may obtain the information available by querying the Investigation and Control Unit directly, at the local CEC.

3) Information System

a) The information system will consist of the following elements and is to be maintained in the form of a register in CECs and CICs for all requests received from each other.

i) Name, position and office of requester;

ii) Social Insurance Number and name of the person on whom information/ investigation is requested;

iii) Other personal identifiers relating to the suspect such as aliases;

iv) Reason(s) for the request;

v) Information provided and by whom;

vi) Cooperation provided and by whom.

b) A copy of the above information is to be maintained at CICs and provided to regional headquarters on request.

4) Responsible Officials

a) To facilitate and expedite this cooperation and exchange of information while ensuring maximum confidentiality, the local supervisor, Investigation and Control or his/her designate in the CEC and the Manager or designate in the CIC is responsible for the coordination of the local activities.

b) The regional Manager/Director, Investigation and Control, Benefit Programs, and the regional Chief/Director, Enforcement will be responsible for establishing effective regional cooperation and providing functional direction/guidance to their designated officers. They will ensure that the information system mentioned above is maintained on a continuing basis and they will study monthly reports to ensure that these guidelines are adhered to. They will also bring to the attention of National Headquarters all cases or unresolved issues between both groups and cases that have a national impact, e.g., contentious or sensitive matters should be resolved nationally.

c) The Commission has directed that where doubt exists as to the application of the above instructions, clarification will be sought from National Headquarters.

5) Receipt of Information Concerning Charges by Police Authorities

Algorithm I illustrates proper procedures to follow upon receipt of information concerning an alien who has been charged by police authorities, i.e., receipt of RCMP form C216. Refer to IE I0.26 for information concerning reports under A27.

10.24 ARREST

Immigration Officers derive their authority to arrest without a warrant from AI03(2). Two essential factors here are the requirements to have reasonable grounds when arresting for inquiry, and to be of the opinion that the person poses a danger or would not appear for inquiry or removal when arresting for inquiry or removal. These two requirements were briefly described in IS 10.15. It should be remembered that unless reasonable grounds exist, there is no authority to arrest without a warrant.

1) Planning a Safe Arrest

a) Arrest is the act of depriving an individual of his/her freedom. There is no way to predict the reaction of an individual faced with arrest. The officer's best tool is careful planning.

b) Each arrest presents an element of danger, which may be diminished with basic safeguards. Caution, preparation and planning, and appropriate human resources are required.

i) Caution: This means planning the necessary steps, and following rules of procedure. Unnecessary dangers should be avoided, such as confronting a known dangerous person without police assistance. Proper search techniques must be employed.

ii) Preparation and Planning: An arrest must never be attempted without a plan of action. Even a chance encounter on the street need not present a major problem if the officer has given some consideration to this possibility in advance. Actions then must be automatic but responsive to the situation and controlled by judgement. Officers should be well-briefed on the subject's background and physical description.

iii) Appropriate Human Resources: Officers should always investigate in pairs, never alone. It may be appropriate in certain circumstances that a female officer conduct investigations with a male officer, depending on the case. As well, it may be necessary to increase the number of investigating officers to form a team should an arrest of more than one person at one time be planned.

c) The officer's comportment and attitude were discussed in the Guidelines portion (refer to 10.06). The officer must maintain authority and control, while remaining within the constraints of the Immigration Act and the Criminal Code.

d) Arresting officers must observe the behavioural traits of the subject and be especially cognizant of the possibility of suicidal tendencies. Should there be an indication that the person is going to harm him/herself, measures must be taken to protect the person, including removing dangerous objects from the premises and getting immediate medical and police assistance.

2) Standard Arrest Procedures

When arresting, an immigration officer should ensure that the following steps are taken:

a) Identify him/herself as an Immigration Officer

It is essential that the investigations officer state that he/she is an immigration officer. The officer is supplied with a badge and an ID card which must be displayed to the subject.

b) Take Physical Custody of the Subject

Do this by placing a hand on his/her arm or shoulder, or if need be, by taking hold of the subject. The "touching" can be an important factor in establishing that the person concerned was placed under arrest should he/she escape custody.

c) Tell the Subject he/she is under Arrest and Inform the Subject of the Reasons and the Right to Counsel

i) Section 10 of the Canadian Charter of Rights and Freedoms provides that everyone has the right on arrest or detention (a) to be informed promptly of the reasons therefor, and (b) to retain and instruct counsel without delay and to be informed of that right.

ii) Investigators must make certain that the person under arrest fully understands why the arrest has taken place and when the inquiry will be held. It is important that all officers take the time to explain what is happening to the person concerned in a manner that is fully understood.

iii) A pre-printed form which has been translated into several languages informs the person of the rights available under the Charter of Rights. The following represents the content of the card which should be shown to arrested persons:

CHARTER OF RIGHTS

I am arresting you for _____.

It is my duty to inform you that you have the right to retain and instruct counsel without delay.

Do you understand?

iv) Form IMM 689 informs in writing of the right to counsel at an inquiry. This form should be completed and given to the person concerned when the inquiry is directed.

v) All possible steps should be taken to promptly inform the person of the reasons for arrest and the right to retain and instruct counsel. The violations under the Immigration Act should be explained in terms that the person understands. When language is a barrier, this may mean taking the person into a CIC and then locating an interpreter. As long as these steps are taken with due diligence, there would likely be no breach of the Charter.

vi) Where the person chooses to retain and instruct counsel, he/she will have to be provided with a reasonable opportunity to do so if facilities are available. That usually implies an opportunity to make one or more telephone calls or if counsel is present, to have an opportunity for consultation. Privacy should be granted for making the phone call or consulting counsel. If counsel is unavailable, there has been no denial of the right to retain and instruct counsel. It is sufficient to allow the detainee to consult with counsel by telephone, although this may vary depending on the case.

d) Inform the Person of his/her Right to Contact the Embassy or Consulate Representative of his/her Government (as per Rights under the Vienna Convention)

Form IMM 1213 is used for the purpose of advising the arrested person of the nearest representative of his/her government.

e) Conduct a Search of the Subject

The search should be conducted at the time the arrest (or detention) takes place. It may be practical for all concerned to remove the person from spectators (such as co-workers) and conduct the search in a more private area, such as a locker room, or office.

3) Fingerprinting and Photographing

R44(2)(d), based upon A110(2), provides the authority to require a person arrested pursuant to AI03 to be fingerprinted or photographed if the immigration officer is not satisfied with respect to the identity of the person arrested. Although any police force may be used to take fingerprints or photographs, these must be submitted to the RCMP for determination of identity. Please refer to IC-1 Appendix "A"(3) for the correct procedures and addresses.

4) Physical Description

The officer who has performed an arrest or who has requested an individual to appear for inquiry or removal is responsible for ensuring that an accurate description of the individual is available on file. Such information as height and body build, hair and eye colour, approximate weight and complexion, should be noted. This information may be necessary in cases where the individual fails to appear or escapes custody.

10.25 SEARCH

1) How to Properly Conduct a Search

a) Prior to searching a subject, the officer must also consider the need for a restraining device (handcuffs). Not every person who is searched needs to be handcuffed as well. Guidelines on determining when to use handcuffs follow in the next section.

b) There are several effective search techniques available to immigration officers. The main ingredient of each method is the control of the situation which should be maintained by the officer throughout the search.

c) A cursory search may suffice. This involves asking the subject to empty pockets, to provide a purse or a coat to be searched, etc. The officer is able to remove any item deemed to be dangerous, such as a penknife or other sharp object.

d) There are several approved methods of the field-search technique. This involves having the subject either stand with the hands placed on a stationary object, such as a desk, or behind their head (with fingers interlocked), or lean against a wall. The person should be kept off balance while the search is conducted, and this can be accomplished by having the feet spread apart, with the person facing away from the officer. Officers should not search persons of the opposite sex.

e) The details of the various techniques are elaborated in regional training courses sponsored by the department, sometimes with the assistance of police agencies.

2) Restraining Devices (Handcuffs)

a) Officers should use handcuffs to restrain an arrested person during the following situations:

i) when the officer encounters an unexpected situation or person whom he/she would not otherwise have dealt with unassisted;

ii) the subject may attempt an escape if unrestrained;

iii) the subject is losing self-control to the point of inflicting injury on self or others.

b) The officer must use judgement and discretion in order to ascertain the need for restraining devices. They should not be used automatically upon every arrest, but rather only after the officer has determined a need. Handcuffs should be used in every case where the subject exhibits violent behaviour.

c) Handcuffs give the arresting officer greater control of the situation, but only if they are properly used. Detailed procedures on their use are available through departmental self-instructional manuals on Investigations ("Arrest and Detention" module), and are included in regional training courses. While applying the handcuffs officers should take precautions to ensure they remain in control, while being alert for any unexpected moves.

10.26 SECTION 27 REPORTS

1) Legal Requirements - Section 27

Officers are legally required to submit a report on a person described in A27(l) or (2) except in the cases of persons who have been arrested without warrant pursuant to Al03. Recognition by an officer that the Deputy Minister or the delegated authority is unlikely to direct an inquiry because of the circumstances of the case does not absolve the officer from the requirement to make a 27 report. Pursuant to All5, the Minister has established form IMM l24l for this purpose. Officers should refer to Instruments I-26 and I-27 for delegations of authority to receive written 27(l) and (2) reports.

2) Formal Report

The IMM l24l must:

a) identify the person who is being reported by completion of the particulars portion of the report;

b) refer to the proper paragraph or subparagraph of A27 under which the report is made;

c) state in the words of the Act, making any necessary changes for plurality or gender, the relevant provisions under which the report is made;

d) give any other names or aliases used on supporting documentation which may be adduced at inquiry;

e) provide sufficient factual particulars supporting the report to allow the person concerned to be able to adequately identify what allegations he/she has to face at inquiry.

3) Narrative Memorandum/Oral Report

a) In addition to the 27 Report, the need to provide detailed background information on the case in question can be met in one of two ways: by way of a narrative memorandum or, with the concurrence of the delegated authority, an oral report. An oral report is acceptable only where no direction for inquiry is anticipated. It is evident that, in the absence of a narrative memorandum to support any decision taken and to facilitate the monitoring process, file notes must be detailed and complete if oral reports are used.

b) The narrative memorandum/oral report should consist of two parts:

i) A factual statement devoid of personal opinion, including these points:

- identification of the person by name (and aliases), with date and place of birth, citizenship, and admission particulars;
- details surrounding the violations, including parole/release date if person is serving a sentence;

- all background information, including employment, marital status of subject, status in Canada of spouse and/or children, financial standing, degree of establishment, family outside Canada, proposed length of stay in Canada, details of passports and travel documents, etc. (as applicable).

ii) Opinions and recommendations, such as:

- opinions the officer wishes to express concerning settlement potential, family relationship, degree of establishment, reasons for contravention, etc.;
- a recommendation, with rationale;
- reasons for delay in submitting a report, if one occurs.

c) Where inquiry is recommended, the following, if available, should be attached to the narrative memorandum in duplicate.

i) True and faithful copy of form IMM 1000, IMM 1097, IMM 1102 or other certificates and affidavits obtained from the Records Manager, Ottawa (if applicable);

ii) Originals or certified true copies of other documents relevant to the case such as Certificates of Conviction or other evidence of a previous conviction which is acceptable in a court of law, form IMM 8, birth or marriage certificate, etc. Officers should carefully examine Certificates of Conviction to ensure that the conviction, as opposed to the original charge, meets the requirements of the particular paragraph of A27 under which the person is being reported;

iii) Police occurrence reports;

iv) Probation, parole or psychiatric assessments;

v) Police records or information on other convictions not reportable under A27(1)(d) or (2)(d);

vi) Where applicable, a copy of form SEC 3-58 (see also IE 2.50 2) and 10.29).

d) The narrative memorandum should be addressed to the Director General, Enforcement, NHQ or to the CIC Manager as applicable. Reports, supporting documentation and narrative memorandum should be submitted to the Director General, Enforcement, through the Regional Director of Immigration who will include his recommendation, along with comments, if any. This will include reports and recommendations for no inquiry concerning permanent residents with which the CIC manager disagrees. The decision of the DG, Enforcement, together with the documentation, will be forwarded to the Regional Director for appropriate action.

10.27 – 10.28 SPARES

10.29 NOTIFICATION OF CITIZENSHIP REGISTRATION

1) How to Determine if a Permant Resident has Obtained or Applied for Citizenship

To determine if a permanent resident (who is to be reported pursuant to A27(1) and has resided in Canada for more than three years) has obtained or applied for Canadian citizenship, officers will send form SEC 3-58 to the Citizenship Registration and Promotion, P.O. Box 7000, Sydney, N.S., B1P 6V6. Telex requests will be accepted in urgent cases, and telephone queries (at 613-994-1566-67 or 68) only in extremely urgent cases (e.g. where a person is under examination at a port of entry and is awaiting a decision as to his/her admissibility). All telephone requests must be followed up by a completed SEC 3-58.

2) Citizenship Registration Liaison

a) An IMM 705 must be sent to Citizenship Branch in all cases involving a permanent resident who has been or will be reported under A27(1), regardless of the length of time since landing. CICs may also submit an IMM 705 where a permanent resident has been arrested or is undergoing trial for an indictable offence but is not yet reportable under A27(1).

b) In all cases where an IMM 705 has been sent, Citizenship Branch must be advised of the final disposition without delay. The information should be conveyed by means of a brief note attached or added to a photocopy of the original IMM 705, clearly marked "FOLLOW-UP".

10.30 SPARE

10.31 THE INVESTIGATOR AS A WITNESS

An investigator may be called upon to be a witness at an inquiry, or occasionally at a court hearing. For that reason, investigators should familiarize themselves with established courtroom procedures, including giving evidence. The investigator's notebook may be examined, and also may be entered as an exhibit and become part of the case. Therefore, the entries in the notebook should be neat, concise, legible and accurate. There are various aspects of comportment and behaviour which will assist the officer in creating a favourable impression. These points and other relevant procedural guidelines are outlined in the Self-Instructional Manual "Immigration Investigations - Giving Evidence" and should be carefully examined.

10.32 UNACCOMPANIED MINORS

1) Referrals of Minors for Review

All cases involving reportable unaccompanied minors (i.e. children under 18 years of age) are to be referred to the Regional Director General, or Executive Director, for a review of all circumstances where enforcement action is to be taken. Referrals should occur at the time that the A20/27 reports are under consideration. Given that the adjudicator cannot consider humanitarian and compassionate factors, it is clearly more appropriate to consider these before an inquiry is initiated.

2) Referral Method (Minors)

Referrals are to be by telex or memorandum as warranted and should include all facts and circumstances of the case including any humanitarian and compassionate considerations. The following checklist of important information should be included in all cases:

a) relatives in Canada: (identify relationship; specify if N/A);

b) relatives abroad: (identify family/parental situation in home country);

c) dependency for support: (child normally under whose care);

d) attachment to Canada: (motivation in coming to Canada);

e) provincial child welfare involvement: (equivalent organization abroad if appropriate);

f) other provincial organization/NGO involvement: (appreciate provincial age limits respecting children may affect whether child welfare or other organization is involved).

3) Caution - Arrest & Detention of Minors

a) Caution is required when dealing with the arrest and detention provisions of the Act where minors are involved. Every effort should, of course, be made to avoid the detention of a minor. Concern

for the protection of the minor's welfare is not a ground for arrest under AI03. However, the indigence of the minor may be a strong indicator that the minor is unlikely to appear for inquiry or for removal.

b) The normal removal process continues to apply for children included as part of a removal order involving parents.

4) Inquiry Process - Unaccompanied Minors

The normal inquiry process will continue to apply in any instance where an unaccompanied minor seeks to claim refugee status pursuant to A44(I). Given that persons without status must access the inquiry process where they wish to submit a refugee claim, concurrence to proceed with inquiry, as outlined above, will not be necessary. This will apply only where officers have determined that it is clearly the stated intent of the minor to access the refugee determination process.

10.33 FEDERAL AND PROVINCIAL JAILS

Appendix "A" contains the federal and provincial jails within the jurisdiction of each CIC. This list will assist officers in determining the appropriate CIC to contact in order to transfer a file, or to obtain information concerning a person serving a sentence who has been moved to another institution.

10.34 ALLEGED WAR CRIMINALS

1) Logging of Allegations

When allegations are made to an immigration officer in Canada concerning a resident of Canada, a person in the process of claiming refugee status, or a person in the process of applying for entry to Canada at a post abroad, the CIC will log the details on IMM 1457 (see App. "I").

2) Accompanying Documentary Evidence

Documentary evidence of various kinds may accompany the allegation, particularly where special interest groups are concerned (e.g., those representing cultural, racial or religious minorities). Evidence in the form of a criminal conviction for a war crime or crime against humanity will likely be extremely rare, but if received might be used directly as a basis for an A20 or A27 report. Other types of evidence may come from a foreign government.

3) Referral to RCMP

The credibility of allegations on persons in Canada will be assessed and recorded at the local level. Allegations with a credible basis, including documentary evidence, are to be referred to the local RCMP detachment for their follow-up action, as deemed appropriate.

4) Referral Abroad

Allegations made against a person who is applying to enter Canada through a Canadian post abroad will be sent to the Immigration Program post concerned (see IS 28) for investigation through the normal security/criminal examination process.

5) Reports Under the Act

No reports under A19(1)(j) or A27(1)(g) or (h), or A27(2)(a) for A19(1)(j) are to be written prior to consultation with the Project Manager, Intelligence and Security, Enforcement Branch, Immigration, NHQ because of the sensitive nature of the allegations and the potential for media attention.

6) Evidence of a Non-Releasable Nature

The Act allows evidence of a non-releasable nature against an individual to be submitted to the Project Manager, Intelligence and Security, Enforcement Branch, Immigration NHQ for consideration of the issuance of a security certificate, as is done for criminal intelligence and security cases. If such information should come to the attention of a CIC, the Project Manager, Intelligence and Security, Enforcement Branch, Immigration NHQ should be contacted to determine if a request for a certificate is being considered and if the information should be forwarded. The issuance of a security certificate would be cause for the writing of a report and direction for inquiry.

7) Cross-Referencing on Local Files

Cross-references on a suspect may become important to the weight of allegations made if there are several unrelated reports made concerning the person.

8) Quarterly Reports

Quarterly reports on the numbers of cases

a) unsubstantiated and merely recorded;

b) referred to the RCMP;

c) referred abroad; and

d) for Security and Intelligence (NHQ) consideration.

are to be sent to regional HQs which will collect the information and forward it to Project Manager, Intelligence and Security, Enforcement Branch, Immigration, NHQ.

10.35 – 10.39 SPARES

10.40 DETENTION (to be read in conjunction with IE 2.03, IE 2.13, IE 2.73, IE 10.51 and App. B)

1) Grounds for Detention

a) Although all arrested persons are detained for practical purposes, not all detained persons have been arrested. Nonetheless, detention under the Immigration Act signifies a similar loss of freedom by the detained individual. The detaining officer must have the same reasonable grounds for detaining for inquiry as are required for arrest for inquiry under our Act.

b) The officer should consider the following when determining whether grounds to detain exist:

i) Does the individual pose a danger to the public? Medical and police information and the individual's behaviour during immigration proceedings should be considered. It should be noted that not all criminals pose a danger to the public.

ii) Is the individual likely to be available? The answer to this question must be the sum of a number of considerations. However, in situations of doubt, the benefit of the doubt must be given to the individual. For instance, consideration should be given to whether the individual:

- has violated a previous bond;
- has moved continuously or provided a false address to avoid detection;
- has lied or escaped or attempted to escape from custody;
- has no place of abode;
- has returned to Canada following a previous deportation;
- has a criminal record;
- has previously failed to appear for judicial proceedings or for interview or examination;

or alternatively,

- has responsible relatives or friends in Canada;
- can provide a meaningful bond or security deposit;
- has reported voluntarily to the Commission;
- has substantial non-moveable assets in Canada.

iii) What is the length of time until the inquiry is to be held? The benefit of the doubt concerning such matters as likelihood of appearance should weigh more heavily in the detainee's favour in cases of distant inquiry dates being set through no fault of the detainee.

2) Destitution/Indigence

a) Persons may not be detained under the Immigration Act simply because they are indigent. Destitution is not conclusive evidence that the person concerned will not appear. However, should the responsible officer believe that the person concerned has no means to ensure his or her presence at inquiry or to effect removal, then such information should be considered when deciding to detain.

b) Officers should be cognizant of available resources within the voluntary sector of the community who might facilitate the release of detained individuals.

3) Rights of Detainees

The detaining officer has an obligation to inform the person on detention of his/her rights according to the Charter of Rights, Section 10, namely to be informed promptly of the reasons therefor (the violations of the Act), to retain and instruct counsel without delay and to be informed of that right (IMM 689 - see App. "D"), and of his/her rights under the Vienna Convention (IMM 1213 - see App. "E"). Section 10 further provides the right on detention to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.

4) Establishing Reasonable Arguments for Continued Detention

The Act provides a system of checks and balances which allows the person to have the reasons for continued detention reviewed (see 10.41 and 10.42 following) and which further authorizes release by a senior immigration officer or adjudicator (see 10.50 following). The investigations officer needs to ensure that reasonable grounds had existed which would prove that the person had violated the Immigration Act, and

that there was a basis for the opinion that the person posed a danger or would not appear. It is presumed that if this were demonstrated to have occurred, then the Courts would find the officer acted in good faith and the detention would be determined to be lawful.

5) Detentions - Areas With Leased Facilities

a) With reference to Annex 1 to Appendix B, detainees in these areas (both port of entry cases as detailed at IE 2.73, and inland arrest cases) are to be routinely held in the leased medium-security hotel facilities unless they fall within one or more of the following categories:

i) detainee he as a criminal record involving acts of violence;

ii) detainee is facing criminal charges in Canada involving violence;

iii) detainee is wanted in another country for criminal for criminal acts in which violence was involved;

iv) detainee has been diagnosed as mentally unstable;

v) detainee has exhibited violent behaviour towards staff or other detainee at the leased hotel facility;

vi) detainee has escaped previously from the hotel facility or has attempted to escape;

vii) detainee attempts suicide or goes on a hunger strike while in the hotel facility;

viii) the hotel facility is filled to capacity.

Whenever a detainee falls into one or more of the above categories, detention is to be at one of the provincial/municipal facilities designated at Instrument I-20 for the areas covered by Annex 1 to Appendix B. In cases involving only h) above, transfer to the hotel facility will be effected at the first opportunity.

10.41 DETENTION REVIEWS - A103.1(1)(a) CASES (IDENTITY)

1) SIO Review of A103.1(1)(a) Cases (Identity)

a) Where the immigration officer has detained an unidentified individual, the SIO must review the information provided concerning identity and any other relevant evidence immediately following the decision to detain. The SIO may continue that detention for a period not exceeding seven days from the time the person was first detained, as recorded by the examining officer.

b) Requests from counsel to attend detention reviews are to be allowed as per the Charter of Rights and Freedoms.

c) Any person who cannot corroborate identity through the usual documentary evidence required by R14 will normally be detained if it can reasonably be determined that the person had a document prior to embarking for Canada, unless he/she is able to give a credible account of his or her identity, including:

i) name, age, nationality, date and place of birth, city and country of normal residence, itinerary for the trip to Canada, and

ii) some corroboration of this account is presented in the form of:

- testimony from relatives/friends who are residents of Canada;
- identity documents or other reliable official documents other than those described in R14.

d) Notwithstanding the fact that identity has not been satisfactorily established, release is warranted where no security threat is seen to exist, and there is either some acceptable evidence concerning the person's identity or mitigating circumstances outweigh the doubts concerning identity, such as:

i) age and health of the detainee;

ii) presence of relatives in Canada;

iii) accompanying dependants;

iv) overall credibility of the person as established through questioning;

v) whether the necessary documents were accidentally forgotten, lost or stolen.

2) Identity Established During The Period of Continued Detention

a) Where, following the review of detention by a SIO, a person's identity and background is satisfactorily established, the person concerned must be brought forthwith before an adjudicator. The Minister's authority in this regard under A103.1(7)(a) has been delegated to, among others, local office managers and senior immigration officers (see Instrument I-38 of Chapter IL3).

b) The CPO is to present the adjudicator with the signed statement (IMM 5012 – see App. "M") to the effect that identity has been established. At that time the usual grounds for detention or release under A103(3) would apply (A103.1(6)).

3) Enhanced Investigation Following A103.1(1) Review by SIO

a) CPO's will be called upon at detention reviews and inquiries to satisfy adjudicators that we are making reasonable efforts to establish the identity of the person concerned (see 5) following). For this reason, investigation into a person's identity needs to be of the highest priority in the handling of these cases. Investigators should, there fore, be prepared to provide CPO's with a detailed account of all efforts made to that point, as well as an estimate of the time normally associated with securing the particular type of information from the source in question. The manner in which our officials liaise with representatives of other government departments is usually established locally but it is expected that the usual levels of cooperation we receive will facilitate our investigation into these matters.

b) Investigators are to use every possible means to follow leads. As with any investigative process, this may require a selective approach based upon an assessment of the quality of the lead and the likelihood of success. The detainee and counsel should be reminded that they can help expedite release by providing complete personal information and by independently seeking documentary evidence in the country of origin. The consent of the individual is not needed to release personal information in the course of the status checks since section 8(2)(a) of the Privacy Act provides for the release of personal information when such release is for the purpose for which the information was obtained, i.e., in this case, for the purpose of establishing the person's identity.

c) With the exception of the U.S., all approaches to persons abroad are to be handled by the appropriate External Affairs post (see chapter IS 28).

4) Certificates to Extend Detention A103.1(2)(a)(i)

a) As there may be unavoidable delays in obtaining information to confirm a person's identity, an additional period of detention is available for further investigation. In all cases a signed statement as follows is required to certify that the additional period is necessary to investigate the person's identity:

i) IMM 1446 (see APP N-1) for purposes of A103.1(2)(a)(i)

OR

ii) IMM 5004 (see APP N-2) for purposes of A103.1(2)(a)(ii)

b) i) Managers are to assess the need for an additional period of detention based upon the information provided by immigration officers concerning ongoing efforts to identify the individual, and any indications of the anticipated time necessary for the receipt of identity information. Detention will continue as long as the adjudicator is satisfied that every reasonable effort is being made to identify the individual.

ii) As detention pursuant to A103.1(2) may be lengthy, a person should be referred for a medical examination if an adjudicator maintains detention.

c) i) Given the short time frame in which to apply for an IMM 1446 or IMM 5004 certificate under A103.1(2), requests are to be sent by telex or dex to the Director General/Director of Immigration at RHQ concerned (see Instrument I-36 at Chapter IL3) clearly marked "URGENT - SAME-DAY DELIVERY". The telex/dex is to be followed up immediately by telephone to confirm that a request has been sent to alert RHQ of the situation at the earliest point.

ii) Offices preparing reports in these cases should provide details concerning information currently available to support the alleged inadmissibility, as well as an indication of any delays expected in obtaining information to confirm that the grounds for continued detention exist.

d) The detention certificate (IMM 1446 or IMM 5004) must be issued prior to the expiry of the initial seven-day period if the Minister thereafter wishes to seek a person's detention on the grounds of a need to investigate identity or background. If the IMM 1446 or IMM 5004 detention certificate is not issued before the expiration of the seven-day period, the adjudicator will conduct a review pursuant to A103.1(3) and will decide whether to release or detain based upon the usual considerations under A103(3).

e) When the Minister certifies in writing that a period of detention beyond the initial seven days is required to investigate a person's identity, the person must be brought before an adjudicator forthwith and at least once every seven days thereafter.

f) As soon as identity has been established, either 2) above or 5) following will be applied.

5) Certificates to Extend Detention (A103.1(2.1))

a) Once a person has been detained for the investigation of identity and the person's identity has been established, the Minister may then have reason to suspect that the person may pose a security risk. A103.1(2.1) allows the Minister to require that detention be continued based upon an amended certificate (IMM 5003 - see App. "O"). Where the amendment is made, the individual must be brought forthwith before an adjudicator rather than wait for the next scheduled seven day review.

b) The Minister's authority in this regard (A103.1(2.1)) has not been delegated.

c) i) Given the short timeframe in which to apply for an IMM 5003 certificate, requests are to be sent by Fax (819-953-8119) to the Director General, Enforcement Branch, NHQ clearly marked "URGENT - SAME-DAY DELIVERY", with a copy to the Regional Director General/Director of Immigration concerned. The telex/dex is to be followed up immediately by telephone (819-994-4871) to confirm that a request has been sent and to alert NHQ of the situation at the earliest point.

ii) Offices preparing requests to NHQ in these cases are to include full details to support the suspicion of a security risk.

6) Guidelines for CPO's

a) Adjudicators will continue to detain for identity investigations only when the CPO proves that, in light of the circumstances, the Minister is taking appropriate steps to determine the person's identity. The assessment regarding these reasonable efforts being made by the Minister is based on the facts of each individual case. If the CPO cannot satisfy the adjudicator that the Minister is making reasonable efforts to complete the identity investigation, the adjudicator will detain or release the person on the usual grounds under A103(3).

b) An adjudicator may also determine that the Minister's continued efforts to investigate identity can no longer be considered as reasonable since in the adjudicator's opinion, the available information satisfactorily establishes identity.

c) A CPO is to describe to the adjudicator the special circumstances or elements of the investigation which prove that the requirements for "reasonable efforts" is being met. Adjudicators will expect precise information. They should be advised, for example, that fingerprints and a photograph were sent to the relevant foreign government authorities for verification on a specific date and that a reply is expected within a certain timeframe. The adjudicator will likely hold a CPO accountable for meeting timeframes or for justifying delays which occur. It is, therefore, important that CPO's are realistic when making commitments.

d) In preparing the Commission's case with respect to our investigation of a person's identity, the CPO should gather evidence relating to such factors as the degree of cooperation exhibited by the person; the likelihood that the necessary information may be obtained; the availability and credibility of witnesses, such as family or friends who may be able to assist in the verification of the person's identity; the evidence of expert witnesses, such as police or consular/government officials.

7) Summary

Investigations into questions of identity must be carried out diligently. Our aim must be to establish identity in the shortest possible timeframe. As a person's time in detention lengthens, we may be called upon to present even stronger evidence that our investigation will confirm identity in a specific period of time. Therefore, individual cases have to be carefully monitored (see 10.51) and every effort to establish identity well documented.

10.42 DETENTION REVIEWS – A103 INLAND ARREST AND PORT OF ENTRY CASES

1) CPO to Present Reasons for Detention

a) At every Detention Review, the CPO must bear in mind that the general presumption is in favour of the person's appearance for examination, inquiry or removal. The onus is on the Commission to satisfy the adjudicator of the validity of the reasons for believing the person concerned would not appear voluntarily, or poses a danger to the public.

b) A Detention Review is not an inquiry. The CPO is not normally excepted to adduce evidence, to question the person concerned directly, nor to present documentary evidence. In the majority of cases, only a submission by each of the parties is required.

c) CPO's should ensure their submissions deal strictly with issues relevant to detention or release, (i.e., the reasons behind their opinion that the person would not appear when required or would pose a danger to the public). The substantive issues of a pending inquiry normally need not be discussed, except where they are inextricably tied to the reasons for believing the person will not

appear e.g., an inquiry under A27(2)f). Even in such cases, it should not be necessary to engage in direct questioning or to present "evidence".

2) Contradictory Information Relating to Detention

Where information presented by the two parties is contradictory, the adjudicator may request clarification from either the CPO or the person concerned. If the adjudicator cannot reach a decision after having assessed the credibility of the two parties on any facts in dispute, the CPO may present any documentary evidence he may have, (e.g., the arresting officer's report) which would support his submission. The detainee may also present documentary evidence or call witnesses to support his submission. A Detention Review would proceed to this stage without the adjudicator reaching a decision only on rare occasions. It should almost never be necessary to go further, but if an occasion should arise, it might be necessary to adduce evidence through direct questioning as a last resort.

10.43 OBSERVERS AT DETENTION REVIEWS

1) Right of Access

With respect to observers at detention reviews, the Federal Court Trial Division has ruled in Southam et al vs. MEI et al, that the public, including the media, have a prima facie right of access to detention review hearings under subsection 2(b) of the Canadian Charter of Rights and Freedoms. This right is not absolute, however, and may be limited when it comes into conflict with other competing rights and interests under the Charter. For example, the public's right of access may be outweighed if the detainee can satisfy the adjudicator that his/her right under Section 7 of the Charter, to life, liberty or security of the person, could be jeopardized by the publication of his/her identity. Alternatively, the public's right of access could be limited when it is counter-balanced by the public's interest in national security and in this regard, CPO's could argue that the public's interest constitutes a reasonable limit to the openness of the hearing under Section 1 of the Charter. This latter argument could be used where the CPO feels that it is likely that security or criminal intelligence information would be presented during the course of a detention review hearing.

2) Objections to Public Access

a) Where any objection is raised regarding the public's access to a detention review hearing, the adjudicator must give the applicant(s) for access an opportunity to present submissions on this point and the onus of satisfying the adjudicator that access should be limited rests with the detainee and/or the Commission.

b) CPO's should inform adjudicators as soon as possible when they become aware that an application for access to a detention review hearing has been submitted. This foreknowledge will enable the adjudicator, prior to the commencement of the detention review, to inform the detainee of the attendance of the public and to ascertain whether any objections to public access will be raised. The adjudicator would thus be prepared to address the issue of access at the commencement of the detention review.

c) Prior to the commencement of the detention review, CPO's should ensure that observers from the public are excluded from the hearing room since the prima facie right of access has effect only at the proceeding itself. It may be necessary that CPO's ensure that interested parties understand that the detention review hearing has not actually started and that the adjudicator is simply advising the person concerned of the public's right to access, ascertaining the response of the person concerned and advising him or her of the process involved in settling the access question.

3) CPO to Advise CEIC Public Affairs

When a case presenting officer becomes aware of public/media interest in a detention review, it would be in order to ensure that the regional manager of Public Affairs is alerted. This prior notification of responsible Public Affairs officials may ease media relations, especially after the conclusion of a public detention review.

4) Representations by Counsel

A person may choose to be represented by counsel at a detention review. If the CPO is aware that a person is represented by counsel, he should ensure that the counsel is notified of the time and place of the detention review.

10.44 SPARE

10.45 CONDUCT OF DETENTION REVIEWS

1) Action by CPO

The CPO's opening statement will be along the following lines:

"Mr./Ms. Adjudicator, in accordance with subsection 103(6) of the Immigration Act, I have brought before you Mr./Ms. _____ in order that the reasons for his/her detention may be reviewed.".

2) Action by Adjudicator

a) The explanatory statement by the adjudicator to the person concerned will be:

"Mr./Ms. _____, under subsection 103(6) of the Immigration Act, you are entitled to a hearing in order that the reasons for your detention can be reviewed by an adjudicator. It it is determined that you do not pose a danger to the public and that you would appear voluntarily for inquiry, you will be released pending inquiry.

Do you understand?

In order to make this determination, I will ask the Commission's representative and yourself to make submissions in this regard.

Do you understand?"

b) the adjudicator will then ask the CPO to make his submissions.

3) Submissions by CPO

a) i) Where the CPO feels continued detention is warranted, he could make a submission along the following lines:

"Mr./Ms. Adjudicator, it is my opinion that the detention of _____ pending inquiry should be continued. In my opinion, Mr./Ms. _____ will not appear voluntarily for an inquiry/poses a danger to the public, because:...".

ii) The CPO will then present arguments on grounds such as those outlined in IE 10.16. He may also include information contained in the arresting officer's report.

iii) The CPO could end the submission with the statement:

"I therefore believe that the information I have just presented constitutes reasonable grounds to believe that _____ would not report voluntarily for inquiry/poses a danger to the public."

b) Where the CPO feels that continued detention in unnecessary, or when he feels the information on file is enadequate to justify continued detention, he should state in the submission that he would have no objection to release on bond. The CPO may comment on the nature and size of the bond as appropriate.

4) Submission by Person Concerned

The adjudicator will then ask the person concerned to make submissions.

5) Adjudicator Renders a Decision

a) The CPO and the person concerned will be asked by the adjudicator if they have anything further to add.

b) The adjudicator renders a decision and orders release or continued detention.

10.46 – 10.49 SPARES

10.50 RELEASE FROM DETENTION

1) Authority to Release From Detention

Pursuant to A103(5) an SIO has the authority to release from detention, within 48 hours, any person who has been detained for examination or inquiry (see IMM 5023 at App. "P"). The SIO does not have this authority once the detention has lasted for 48 hours. When an SIO reviews a person's detention pursuant to A103(5), he should complete an IMM 1439 (Release Hearing – see App. "Q") which will document what occurred during the review. If the individual is not released by an SIO and that person's examination, inquiry, or removal does not take place within 48 hours, that person is entitled, pursuant to AI03(6), to be brought before an adjudicator as soon as practicable in order that his detention may be reviewed. Should the detention be continued, the person is entitled to be brought before an adjudicator at least once during each seven-day period thereafter.

2) Terms and Conditions May be Imposed

In cases where there are doubts regarding the need for detention, there is provision for release from detention subject to such terms and conditions as the adjudicator or senior immigration officer deems appropriate in the circumstances, including the payment of a security deposit or the posting of a performance bond (see also chapter IE 3).

3) Acceptable Conditions of Release

a) Where the concerns for release are based primarily on the unavailability of a party who can be responsible for the detainee, consideration should be given to releasing, or seeking the release of detainees to a non-governmental organization or an individual responsible guarantor who comes forward on the person's behalf.

b) Persons will not be released from detention where there remains a legal requirement on the part of a senior immigration officer or an adjudicator to detain them.

c) When making the decision to release or to argue for release, the senior immigration officer has to be satisfied that the guarantor is able to exercise such control over the movements of the person released that he/she will report for continuation of Immigration proceedings, as required. Also, the reliability of the guarantor must be assessed; for example, if a proposed guarantor had defaulted on a previous bond, then the SIO would be less inclined to see the person released without requiring a cash deposit or a performance bond.

d) These guidelines should be read in conjunction with existing references to release from detention, found in IE 3.09.

10.51 MONTHLY DETENTION MONITORING REPORT

1) Purpose of the Report

a) National Headquarters prepares a consolidation of the regional reports which is delivered to the Minister and other senior NHQ management who regard the report as an important monitoring tool of a very sensitive aspect of the program.

b) The primary purpose of the monitoring exercise is to ensure that no person is overlooked while in detention and that detainees receive first priority in terms of scheduling of inquiries and IRB hearings. NHQ monitoring of detention also seeks to eliminate lengthy detentions by requesting clarification of:

i) repeated adjournments of inquiries for counsel, time of day, IRB member or Commissions, etc.;

ii) IRB hearing dates which do not seem to take into account the fact of detention (e.g., scheduled hearing dates of more than two weeks following credible basis findings at inquiries);

iii) seemingly long adjournments for counsel, etc. (anything in excess of 10 days is seen as "long" in detained cases);

iv) delays in obtaining travel documents from foreign consulates/embassies;

v) delays in effecting removal for other reasons following order to remove.

vi) unnecessary maximum-security detentions in centres where we have leased medium-security facilities (see Annex 1 to Appendix B and 10.40 5).

2) Completion of IMM 654 (see App. "H")

Note: The IMM 654 format must be used - but not necessarily the IMM 654 itself. Some regions (and some areas within Ontario region) utilize a computer format which is fine as long as the information is presented in the same manner as outlined on the IMM 654). All IMM 654 submissions must be typewritten - not handwritten.

a) Column 1

For the first listing of an individual, this column must reflect the full name, with the family name first in capital letters, followed by any given name(s), e.g.

DOE, John Frederick

- then the date of birth in this order:

21 May 1965

- then the country of citizenship

Note: Show the name of the country rather than citizenship – e.g. Ghana and not Ghanian. If the person is a citizen of the U.K., specify "U.K." and not "Scotland", "England", etc.

– then the sex of the detainee (M = Male; F = Female)

– then the local office file number and any NHQ file number which may appear on local files from previous correspondence (usually in A103 arrest cases).

For each subsequent report in which the individual appears you need only include the full name in Column 1.

Note: Once a person is established in a report, we must continue to receive information on that individual up to, and including, release or removal (see also comments for Column 5 in e) following and in 3) following).

b) Column 2

In each report the appropriate sub-column of Column 2 must be checked. Each detainee has to fit one of the categories.

c) Column 3

i) The first listing of an individual will show the number of days in immigration detention at the time the report was completed (do not include Court detention) and the appropriate number of days will be added to that total if the person is still in detention when the next report is submitted. If released or removed in the period between reports, the appropriate number of days will be added to the original listing.

ii) The number of days in detention is meant to cover only continuous uninterrupted immigration detention and is not to include previous Court detention after a period in immigration detention – and then later returned to immigration detention – the number of days are to be calculated only from the latest immigration hold.

iii) Detention, for purposes of this report, commences as soon as the person is ordered detained and not when actually checked in at the facility.

iv) When a detainee is transferred from another centre to a Central Removals Unit, where detention is continued pending removal arrangements or while awaiting delivery of a travel document, the region/district concerned is to reflect such detentions in their subsequent report and reflect the cumulative detention days.

d) Column 4

Show the full name of the place of detention, not initials, e.g. Lower Mainland Regional Detention Centre, and not L.M.R.D.C. or Airport Skyline and not M.D.C.

e) Column 5

This column will reflect the following details:

i) Cause of inquiry or removal (quote applicable sections of the Act);

ii) Dates of arrest, detention, inquiry commencements, adjournments, resumptions or conclusions;

Note: If an adjournment is granted for an unusually long period (i.e., in excess of 10 days in detained cases is regarded as long), you are to indicate the reason. For example, if an adjournment of one month is granted because release under bond is imminent, please say so in this column otherwise NHQ will seek clarification.

iii) Dates of appeals, motions or refugee claims entered and their scheduled hearings;

iv) Dates of reviews of detention;

v) Reasons why a person is detained (see IE 10.40);

Note: When a person is held in a provincial or municipal detention centre/jail as opposed to a leased detention facility (See Annex 1 to Appendix B), show the reason(s) for such detention as listed in 10.40 5). This applies as well to reports from the smaller Regions where provincial/municipal facilities are used almost exclusively, as we want to be able to differentiate between truly violant cases, etc., and those detained there simply for resource reasons.

vi) Reasons for adjournments (e.g., for counsel, due to "time of day", for IRB Member, for adjudicator, etc.;

Note: When an inquiry is adjourned due to "time of day" you are to include the time of the day the inquiry commenced. Such adjournments should be few and far between in detention cases.

vii) Reasons for delays in commencing an inquiry if in excess of 48 hours;

viii) Reasons for delays in effecting removal, indicating what steps were taken to resolve the problem and the anticipated date of removal;

ix) Any change in detention location will be reflected in this column with the full reasons for the transfer;

x) Full details of any escape will be reflected in this column;

xi) When a detention is terminated the subsequent report will show the full name only in column 1 followed by the reasons for termination in Column 5, e.g.,

DOE, John	Released under T&C Bond 1.1.90
DOE, Mary	Removed to (name of country) on 1.1.90. Departure confirmed.

Note: When reporting release, you are to include details of any bond (e.g., T&C bond, $xxxx cash bond, performance bond or any combination thereof).

3) Who is to be included in the Report

a) Since this is a monitoring report of people in detention when the report is due, persons detained and released or removed in the period between reports are not to be included.

b) It is realized this method will result in some regions reporting on detentions which in effect last only three or four days (i.e., a person is in detention for one or two days when a report comes due and is released the day after the report is submitted) while not reporting on some that lasted nine or ten days in the period between reports. However, this is NOT another statistical-gathering device and since the above-mentioned one or two-day detention could go on for much longer it is necessary to include it when a report comes due.

c) If statistics on total detentions are required, they are readily available through the EISS system.

4) Information Regarding Availability of Travel Documents

a) We must know, for each detainee, whether or not a passport or other form of travel document is available (birth certificate in the case of U.S. citizens) for possible removal action. This can be reflected in one of two ways:

i) in the remarks column by simply stating the situation, e.g. PASSPORT AVAILABLE or NO PASSPORT

ii) by utilizing an asterisk system, beside the name in column 1, e.g.,

DOE, John *

or

DOE, John **

One asterisk (*) means a passport/document is available for use.

Two asterisks (**) means no such document is available.

b) When requesting travel documents from foreign government representatives in cases under removal order, include in Column 5 the date of the original request plus the dates of any follow-up queries (verbal or written). This is important in seeking External Affairs assistance in obtaining travel documents in a realistic period of time, and also in developing a realistic timeframe for use of the "no document" form IMM 5011.

5) Submission of the Report

a) The report is to be sent by FAX to NHQ number 953-8119 the first thing in the morning on the first workday following the month in question. The cut-off for reported detentions in each report are those ordered detained on the previous day.

b) Nil reports will be telephoned to NHQ number 819-994-1671.

c) When using the FAX, please do not use the "copy reduction" mode of your machine to reduce the report to 8 x 11. This tends to distort the details at the receiving end.

10.52 HOLDING ROOMS AT CIC'S (see also IE 2.14 and APP. "B")

The following is intended to provide operational guidelines regarding the holding of detained persons in CIC's.

1) Definition of a Holding Room

Many offices, depending on size and volume of business, do not have officers dedicated only to the detention and removal function, especially as it relates to inquiries and detention reviews. An officer at the CIC will, however, be responsible for the holding room, even if this is one of several other duties. The holding room is defined as any area which has been designated as secure, and which serves the purpose of holding detained persons. It may be a specially designed room or an existing work area, such as a conference room. It is to be used for short periods of time (a few hours at most) during which officers can make necessary arrangements.

2) Duties of the Detention and Escort Officer

The detention and escort officer has certain duties respecting the operation of holding rooms. They include preventing escapes, maintaining order in the holding room by keeping constant control, protecting from assault against other detainees or immigration officers, as well as ensuring detainees' rights are respected, including guaranteeing the detainees' welfare and the safekeeping of their papers and personal effects.

3) Basic rules of a Holding Room

The basic rules respecting the operation and maintenance of holding rooms include:

a) Visitors, other than counsel, are prohibited. This is legal and proper as long as there is no interference with the right of detainees to consult with and be represented by counsel. Visitors have normal access to detainees at the Immigration holding centre or provincial detention centre.

b) Detainees' counsel may see their clients at any time. Counsel may be legal or lay counsel, including family members. Every effort should be made to provide a separate room for this purpose. If there are no other detainees in the room, the detention room may be used for this purpose.

c) Holding rooms should contain no objects that could easily be used by the detainee to harm officers, other detainees or him/herself (e.g. glass/sharp objects).

d) All detainees are to be searched before going into the holding room. They are not to retain personal effects, and should surrender these items to the officer who retains them and provides a receipt for them. Matches and other incendiary materials are to be taken from the detainee.

e) Detainees should be searched in private after visiting with counsel before returning to the holding room.

f) Anyone who is detained because he or she is deemed to be a danger to the public will not be held in CIC holding rooms except where awaiting transportation to a detention centre. (see 10.40 5)).

g) Anyone who poses a threat in the holding room will be removed to a more secure detention centre. (see 10.40 5)).

h) Unless absolutely necessary, the person should not be left unattended. The responsible officer should observe the detainee regularly.

i) The detention officers' supervisor should inform the office manager of a dangerous situation.

j) Inquiry scheduling must take into account the priority of detention cases to ensure a minimal waiting period.

k) The supervisor should set minimum standards for a guard/detainee ratio.

l) Where facilities permit, certain detainees should be segregated from others, such as women from men, persons with deviant behaviour from others. Should this not be possible, serious consideration should be given to not bringing persons who should be segregated to the CIC at the same time as others.

4) Potentially Violant Detainees

At all times, officers must remember that should they perceive the potential for violence, or should they witness an act of violence, all of which places the officer in danger, they should immediately contact the nearest police force to obtain assistance, and in the interim, if necessary, call upon their colleagues for assistance. (see 10.40 5)).

10.53 ... ON SPARES

APPENDIX "A"
Federal and Provincial Jails
(Reference IE 10.33)

NEWFOUNDLAND REGION	
CIC - Gander	**CIC - St. John's**
Bishops Falls Correctional Centre P.O. Box 880 Bishops Falls, Nfld. A0H 1C0	Her Majesty's Penitentiary P.O. Box 5459 St. John's, Nfld. A1C 5W4
Nfld. & Labrador Correctional Centre for Women P.O. Box 660 Stephenville, Nfld. A2N 3B5	Salmonier Correctional Institution Salmonier Line P.O. Box 5459 St. John's, Nfld. A1C 5W4
West Coast Correctional Centre P.O. Box 660 Stephenville, Nfld. A2N 3B5	Clarence Correctional Centre P.O. Box 1030 Clarenville, Nfld. A0E 1J0
Labrador Correctional Centre P.O. Box 3018 Labrador, Nfld. A0P 1E0	
RCMP Detachment Gander, Newfoundland	
NOVA SCOTIA REGION	
CIC - Halifax	**CIC - Kentville**
Halifax Correctional Centre P.O. Box 10 Lower Sackville, Nova Scotia B4C 2S8	Kings Correctional Centre P.O. Box 124 Waterville Kings County, Nova Scotia B0P 1V0
CIC - New Glasgow	Lunenburg Correctional Centre R.R. 2 Lunenburg County, Nova Scotia B0J 2C0
Springhill Institution Springhill, Nova Scotia B0M 1X0	
Cumberland Correction Centre 1 Lawrence Street Amherst, Nova Scotia B4H 3G4	Hants Correctional Centre P.O. Box 128 Windsor, Nova Scotia B0N 2T0
Guysborough Correctional Centre P.O. Box 209 Guysborough, Nova Scotia B0H 1N0	Queens Correctional Centre P.O. Box 1750 Liverpool, Nova Scotia B0T 1K0
	CIC - Sydney
Antigonish Correctional Centre P.O. Box 1748 Antigonish, Nova Scotia B2G 2M5	Cape Breton Correctional Centre R.R. #4 Sydney, Nova Scotia B1P 5R3
	CIC - Yarmouth
Colchester Correction Centre P.O. Box 921 Truro, Nova Scotia B2N 5G7	Yarmouth Correctional Centre 459 Main Street Yarmouth, Nova Scotia B5A 1G9
	Shelburne Correctional Centre P.O. Box 248 Shelburne, Nova Scotia B0T 1W0

PRINCE EDWARD ISLAND REGION	
CIC – Charlottetown	
Sleepy Hollow Correctional Centre Charlottetown	
Kings County Jail Georgetown	
Prince County Jail Summerside	
NEW BRUNSWICK REGION	
CIC – Bathurst	**CIC – Edmundston**
Atlantic Institution Renous, N.B. E0C 1X0	St. Hilaire Correctional Centre R.R. #1 Edmundston, N.B. E3V 3K3
	CIC – Fredericton
Dalhousie Provincial Jail Dalhousie, N.B. E0K 1B0	Fredericton Provincial Jail 668 Brunswick Street Fredericton, N.B. E3B 1H5
CIC – Moncton	**CIC – Saint John**
Dorchester Penitentiary Dorchester, N.B. E0A 1M0	Saint John Regional Correctional Centre R.R. #3, Old Black River Road Saint John, N.B. E2L 3W3
	CIC – Woodstock
Moncton Detention Centre 45 Commercial Street Moncton, N.B. E1C 1A2	Woodstock Provincial Jail Maple Street Woodstock, N.B. E0J 2B0
Richibucto Provincial Jail Richibucto, N.B. E0A 2M0	Carlingford Provincial Jail R.R. #3 Andover, N.B. E0J 1V0
Westmorland Institution Dorchester, N.B. E0A 1M0	
Dorchester Provincial Jail Dorchester, N.B. E0A 1M0	
QUEBEC REGION	
CIC – Chicoutimi	**CIC – Hull**
Centre de détention 237 est, rue Price Chicoutimi (Québec) G7H 2E5	Établissement de détention de Hull 75, rue St-François Hull (Québec) J9A 1B4
Centre de détention 750, boul. St-Joseph Roberval (Québec)	Établissement de détention de Mont-Laurier 663, Carré Laurier Mont-Laurier (Québec) J9L 2W4

QUEBEC REGION (cont'd)	
CIC – Exécution De La Loi/Jean-Talon	**CIC – Lacolle**
Établissement Leclerc 400 Montée St-François St-Vincent de Paul Laval (Québec) H7C 1S7	Service correctionel du Canada Établissement de Cowansville R.R. #1 Cowansville (Québec) J2K 3G6
Établissement Montée St-François 200 Montée St-François St-Vincent de Paul Laval (Québec) H7C 1S5	Ministère de la Justice du Québec Établissement de détention 916, rue Principale Cowansville (Québec) J2K 1K1
Établissement Laval 180 Montée St-François St-Vincent de Paul Laval (Québec) H7C 1S5	Ministère de la Justice Établissement de détention 75, rue Montcalm Valleyfield (Québec) J6T 2C8
	CIC – Longueuil
Centre Fédéral de Formation 6099, boulevard Lévesque St-Vincent de Paul Laval (Québec) H7C 1P1	Établissement de détention 16400, rue Mercure Saint-Hyacinthe (Québec) J2T 2Y5
	CIC – Mirabel
Centre de Prévention 1701, rue Parthenais Montréal (Québec) H2K 2S7	Établissement Ste-Anne-des-Plaines 246, Montée Gagnon Ste-Anne des Plaines (Québec) J0N 1H0
Maison Tanguay 11000, rue Tanguay Montréal (Québec) H3L 3H2	Prison de St-Jérôme Centre de détention et de prévention 40, Montée Meunier St-Jérôme (Québec) J7Z 5V3
Prison de Montréal (Bordeaux) 800, boulevard Gouin ouest Montréal (Québec) H3L 1K7	Établissement La Macaza 321, chemin de l'aéroport La Macaza (Québec) J0T 1R1
Institut Phillipe Pinel 10905, boulevard Henri-Bourassa est Montréal (Québec) H1C 1H1	Établissement Archambault 242, Montée Gagnon Ste-Anne des pleines (Québec) J0N 1H0
CIC – Québec	**CIC – Sept Îles**
Centre de détention Rue Principale New-Carlisle (Québec) G0C 1Z0	Sept-Îles Centre Provincial Établissement de détention 425, boul. Laure Sept-Îles (Québec) G4R 1X6
Centre de détention 9275 De la Concorde Charlesbourg (Québec) G1G 3G4	Baie-Comeau Centre Provincial Établissement de détention 73, rue Mance Baie-Comeau (Québec) G4Z 1N1

QUEBEC REGION (cont'd)	
CIC – Québec (cont'd)	**CIC – Sherbrooke**
Centre de détention Percé (Québec) G0C 2L0	Établissement Drummond Service correctionnel du Canada 2025 Jean de Bréboeuf Drummondville (Québec) J2B 7Z6
Centre de détention 181 De la Cathédrale, P.B. 490 Rimouski (Québec) G5L 7C5	Établissement de détention 271, rue Winter Sherbrooke (Québec) J1H 4E7
Centre de détention 33 De la Cour Rivière-du-Loup (Québec) G5R 1J1	Centre de réhabilitation C.P. 1150 Waterloo (Québec) J0E 2N0
	CIC – Trois-Rivières
Maison Gomin 2026 boul. Ste Sillery-ouest Ste-Foy (Québec) G1V 2K8	Établissement de détention 450 St-Louis, C.P. 162 Joliette (Québec) J6E 3Z3
Centre de détention Donnacona (Québec)	Établissement de détention 400, boul. Poliquin, C.P. 529 Sorel (Québec) J3P 5N9
CIC – Val D'or	
Centre de détention 851, 3e rue ouest Amos (Québec) J9T 2T4	Établissement de détention 7600, boul. Parent Trois-Rivières (Québec) G9A 5E1
ONTARIO REGION	
CIC – Ontario	**CIC – Fort Frances**
County Jail Cornwall 20 Pitt St. Cornwall, Ontario	Fort Frances District Jail 310 Nelson Street Fort Frances, Ontario
L'Orignal Jail Court House L'Orignal, Ontario	Kenora District Jail 1430 River Street Kenora, Ontario
CIC – Guelph	**CIC – Hamilton**
Wellington Detention Centre P.O. Box 870 Guelph, Ontario N1H 6M6	Hamilton Wentworth Detention Centre 165 Barton Street East Hamilton, Ontario L8L 2W6
Guelph Correctional Centre P.O. Box 3600 Guelph, Ontario N1H 6P3	Burtch Correction Centre P.O. Box 940 Brantford, Ontario N3T 5Z6
CIC – Kingston	**CIC – Kitchener**
Bath Institution P.O. Box 1550, Highway 33 Kingston, Ontario K7L 5C7	Waterloo Regional Detention Centre 185 Hespeler Road Cambridge, Ontario N1R 3H8
Collins Bay Institution P.O. Box 190, 455 Bath Road Kingston, Ontario K7L 4V9	Stratford Perth Detention Centre 20 St. Andrew Street Stratford, Ontario N5A 1A3

ONTARIO REGION (cont'd)	
CIC - Kingston (cont'd)	**CIC - London**
Frontenac Institution P.O. Box 190, 455 Bath Road Kingston, Ontario K7L 4V9	Elgin Middlesex Detention Centre 711 Exeter Road London, Ontario N6E 1L3
	CIC - Mississauga Enforcement
Joyceville Institution Highway 15, P.O. Box 880 Kingston, Ontario K7L 4X9	Metro Toronto West Detention Centre 111 Disco Road Etobicoke, Ontario
Kingston Penitentiary P.O. Box 880 Kingston, Ontario K7L 4V7	Maplehurst Adult Training Centre 661 Martin Street Milton, Ontario
Millhaven Institution P.O. Box 280 Bath, Ontario K7L 4H6	Ontario Correctional Institute 109 McLaughlin St. S., Brampton, Ontario
Pittsburg Institution Highway 15, P.O. Box 880 Kingston, Ontario	Syl Apps Youth Centre and the Oakville Observation and Detention Home 475 Iroquois Shore Road Oakville, Ontario
Prison for Women P.O. Box 515 Kingston, Ontario K7L 4V7	Vanier Centre for Women and the Vanier Centre for Young Offenders 205 McLaughlin St. S., Brampton, Ontario
Quinte Regional Detention Centre P.O. Box 3060 Napanee, Ontario K7R 3S1	Mimico Correctional Centre Box 75, Station "N" Toronto, Ontario
	CIC - Niagara Falls
Warkworth Institution P.O. Box 769 Campellford, Ontario	Niagara Falls Regional Detention Centre P.O. Box 1050, Hwy. #58 Thorold, Ontario L2V 4A6
CIC - Oshawa	**CIC - Ottawa**
Millbrook Correctional Centre Box 300 Millbrook, Ontario	Perth Provincial Jail 62 Beckwith Street East, Box 144 Perth, Ontario K7H 3E3
Whitby Jail Box 156 Whitby, Ontario	Pembroke County Jail 297 Pembroke Street East Pembroke, Ontario K8A 3K2
CIC - Prescott	
Brockville Jail P.O. Box 285 Brockville, Ontario K6V 5E5	Ottawa Carleton Regional Detention Centre 2244 Innes Road Ottawa, Ontario K1B 4C4
CIC - Sarnia	
Sarnia Provincial Jail 700 N. Christina Street Sarnia, Ontario N7V 3C2	Rideau Correctional Centre P.O. Box 100 Burritt's Rapids, Ontario K0G 1B0

ONTARIO REGION (cont'd)	
CIC - Sarnia (cont'd)	**CIC - Sault Ste. Marie**
Chatham Provincial Jail 17 Seventh Street Chatham, Ontario N7M 4J9	Sault Ste. Marie District Jail Provincial Institution 145 McNabb Street Sault Ste. Marie, Ontario
CIC - Sudbury	**CIC - Thunder Bay**
Haileybury District Jail P.O. Box 578, Main Street Haileybury, Ontario P0J 1K0	Thunder Bay Jail Ministry of Correctional Services 285 McDougall St. Thunder Bay, Ontario P7A 2K4
North Bay District Jail 2250 Trout Lake Road North Bay, Ontario P1B 7S7	Thunder Bay Correctional Centre (Prison Farm and Young Offenders) Ministry of Correctional Services R.R. 3 Hwy 61 P7C 4V2
	CIC - Toronto Enforcement
Sudbury District Jail 181 Elm Street West Sudbury, Ontario P3C 1T8	Metro Toronto East Detention Centre 55 Civic Road Scarborough, Ontario M1L 2K9
Monteith Correctional Centre Junc. Hwy, 11 & 577 Monteith, Ontario P0K 1P0	Metro Toronto West Detention Centre 111 Disco Road Rexdale, Ontario M9W 1M3
Cecil Facer Youth Centre P.O. Box 850 Sudbury, Ontario P3E 4S3	Mimico Correctional Centre 130 Horner Avenue Toronto, Ontario M8V 3S9
CIC - Windsor	
Windsor Provincial Jail 378 Brock Street Windsor, Ontario N9C 2S7	Toronto Don Jail 550 Gerrard St. E., Toronto, Ontario M4M 1X6
CIC - Woodstock	
Elgin Middlesex Detention Centre 711 Exeter Road London, Ontario N6E 1L3	Keele Community Correctional Centre 330 Keele St. Toronto, Ontario
MANITOBA REGION	
CIC - Brandon	**CIC - Winnipeg**
Brandon Correctional Institution P.O. Box 1400 Brandon, Manitoba R7A 6M9	Headingley Correctional Institution P.O. Box 130 Headingley, Manitoba R0H 0J0
Dauphin Correctional Institution 114 River Avenue West Dauphin, Manitoba K7N 0K7	Provincial Remand Centre 3rd Floor - 151 Princess Street Winnipeg, Manitoba R3B 1L1
The Pas Correctional Institution 306 Fischer Avenue The Pas, Manitoba R9A 0K5	Portage la Prairie Correctional Centre for Women 329 Duke Avenue Winnipeg, Manitoba R1N 0S4

MANITOBA REGION (cont'd)	
	CIC – Winnipeg (cont'd)
	Stony Mountain Institution P.O. Box 9250 Winnipeg, Manitoba R3C 3W9
	Manitoba Youth Centre 170 Doncaster Street Winnipeg, Manitoba R3N 1X9
SASKATCHEWAN REGION	
CIC – Prince Albert	**CIC – Saskatoon**
Saskatchewan Penitentiary Box 160 Prince Albert, Saskatchewan S6V 5RC	Regional Psychiatric Centre (Prairies) 2520 Central Avenue North, Box 9243 Saskatoon, Saskatchewan S7K 3X5
Pine Grove Correctional Centre (for Women) Box 3003 Prince Albert, Saskatchewan S6V 6G1	Saskatoon Correctional Centre Box 7140 Saskatoon, Saskatchewan S7K 4J1
Prince Albert Provincial Correctional Centre Box 3003 Prince Albert, Saskatchewan S6V 6G1	North Battleford Correctional Centre Box 996 North Battleford, Saskatchewan S9A 3E6
CIC – Regina	
Regina Correctional Centre Box 617 Regina, Saskatchewan S4P 3A6	
ALBERTA/NORTHWEST TERRITORIES REGION	
CIC – Calgary	**CIC – Edmonton**
Calgary Correctional Institute P.O. Box 3250, Station "B" Calgary, Alberta T2M 4L9	Fort Saskatchewan Correctional Institute 9930–101 Street Fort Saskatchewan, Alberta T0B 1P0
Calgary Remand Centre 335–6th Avenue S.W. Calgary, Alberta T2G 4V1	Edmonton Remand Centre 9660–104 Avenue Edmonton, Alberta T5H 4B5
Drumheller Institution Box 3000 Drumheller, Alberta T0J 0Y0	Edmonton Institution Box 2290 Edmonton, Alberta T5J 3H7
	CIC – Grande Prairie
Calgary Young Offenders Centre 118 Avenue 85 Street, N.W. Bag 3240, Station B Calgary, Alberta T2M 4S9	Peace River Correctional Institute P.O. Box 400–90 Peace River T0H 2X0
CIC – Lethbridge	
Lethbridge Correctional Institute P.O. Box 300 Lethbridge, Alberta T1J 3Z3	Grande Cache Correctional Institute P.O. Box 4000 Grande Cache, Alberta T0E 0Y0

ALBERTA/NORTH WEST TERRITORIES REGION (cont'd)	
CIC – Lethbridge (cont'd)	**CIC – Red Deer**
Medicine Hat Remand Centre 874 – 2nd Street, S.E. Medicine Hat, Alberta T1A 8H2	Bowden Institution Box 6000 Innisfail, Alberta T0M 1A0
CIC – Yellowknife	
Yellowknife Correctional Centre P.O. Box 278 Yellowknife, N.W.T. X1A 2B2	
Northwest Territories Correctional Centre for Women P.O. Box 107 Fort Smith, N.W.T.	
Baffin Correctional Centre P.O. box 368 Frobisher Bay, N.W.T. X0A 0H0	
BRITISH COLOMBIA/YUKON REGION	
CIC – Huntington	**CIC – Kamloops**
Ferndale Institution P.O. Box 50 Mission, B.C. V2V 4L8	Kamloops Regional Correctional Centre 2250 West-Trans-Canada Highway, Box 820 Kamloops, B.C. V2C 5M9
	CIC – Nanaimo
Kent Institution Box 1500 Agassiz, B.C. V0M 1A0	Nanaimo Correctional Centre Bag 4000 Nanaimo, B.C. V9R 5N3
Matsqui Institution P.O. Box 2500 Abbotsford, B.C. V2S 4P3	Lakeview Youth Camp P.O. Box 8500 Campbell River, B.C. V9W 5C5
	CIC – New Westminster
Mountain Institution P.O. Box 1200 Agassiz, B.C. V0M 1A0	Alouette River Institute 248 Street, P.O. Box 4000 Maple Ridge, B.C. V2X 7G4
Mission Institution P.O. Box 60 Mission, B.C. V2C 4L8	Haney Forest Camp 248 Street, Box 1000 Maple Ridge, B.C. V2X 7G4
Regional Psychiatric Centre P.O. Box 3000 Abbotsford, B.C. V2S 4P4	Stave Lake Camp Box 1000, North End Burma Road Maple Ridge, B.C. V2X 7G4
Stave Lake Institution P.O. Box 1000 Maple Ridge, B.C. V2X 7G4	Twin Maples Institute 280th Street – 104 Avenue Ruskin, B.C. V0M 1R0
Sumas Centre P.O. Box 248 Abbotsford, B.C. V2S 4N9	Colony Farm 500 Lougheed Hwy Port Coquitlam, B.C. V3C 4J2

BRITISH COLOMBIA/YUKON REGION (cont'd)	
CIC – Huntington (cont'd)	**CIC – New Westminster (cont'd)**
Chilliwack Forest Camp P.O. Box 365 Chilliwack, B.C. V2P 6J4 *(includes Security Unit, Mount Thorston and Ford Mountain)*	Riverview Hospital 500 Lougheed Hwy Port Coquitlam, B.C. V3C 4J2
	CIC – Prince George
Community Correctional Centre 46029 Victoria Avenue East Chilliwack, B.C. V2P 2T9	Prince George Correctional Centre Guay Road Prince George, B.C.
	CIC – Prince Rupert
Elbow Lake Harrison Mills, B.C. V0M 1L0	Terrace Correctional Centre 4926 West Highway 16 Terrace, B.C.
CIC – Vancouver	**CIC – Victoria**
Lower Mainland Regional Correctional Centre 5700 Royal Oak Drive Burnaby, B.C. V5H 3N3	William Head Correctional Service of Canada Box 4000, Station "A" Victoria, B.C. V8X 3Y8
Marpole Community Correctional Centre 8982 Hudson Street Vancouver, B.C. V6P 4N4	Vancouver Island Regional Correctional Centre 4216 Wilkinson Road Victoria, B.C. V8T 5B2
	CIC – Whitehorse
Willingdon Youth Detention Centre 3655 Willingdon Avenue Burnaby, B.C. V5G 3X1	Whitehorse Correction Centre 232 Range Road Whitehorse, N.W.T. Y1A 5B6
Lakeside Correctional Centre for Women 5700 Royal Oak Drive Burnaby, B.C. V5H 3N3	
Vancouver Pretrial Services Centre 275 East Cordova Street Vancouver, B.C. V6A 3W3	

APPENDIX "B"
Detention Centres
Standard Operating Principles

(References at 10.25 and 10.26)

1. INTRODUCTION

a) The Immigration Act allows for the Minister of Immigration to designate immigrant stations, commonly known as detention or holding centres, for the purposes of this Act (see Instrument I-20 at Chapter IL3). In the three regions with the most detention days, Ontario, Quebec and B.C., the Commission leases privately-owned facilites, such as blocks of hotel rooms (see Annex I to this Appendix). In all regions, there are occasions where publicly-owned facilities, usually municipal and regional correctional centres accommodate our detainees. The length of detention time may be affected by delays in removals, lengthy appeal processes, suitability of available bondspersons, and degree of community involvement.

b) The Standard Operating Principles which follow can be implemented with any authority only in those facilities where the Commission leases space, as in the example of the hotel rooms. We may not impose our standards upon other jurisdictions; however, regions are encouraged to meet with receiving officials to provide them with these principles, with a view to establishing a fully satisfactory environment for immigration detainees who are housed in their facilities.

c) The Standard Operating Principles are intended to provide a broad frame work in which we administer the Immigration Act within an immigrant station. There are legislative constraints which prescribe certain of our activities; for example, the requirement to bring a detainee before an adjudictor after 48 hours, and if still in detention, every 7 days thereafter. The day-to-day operations of these facilities are not pres cribed by law, however, we have committed ourselves to provide a satisfactory setting for persons detained under our Act. These principles should not be considered to be inflexible instruments, but rather practical tools which give our officers support and guidance as they implement local procedures.

2. DUTIES OF SECURITY STAFF

a) The immigration officer at the centre, sometimes referred to as the resident detention officer, is the senior officer and, as such, is the final authority and decision-maker. Examples of where the immigration officer decides the course of action are elaborated below and in the following sections. The immigration officer is usually present for a regular day-time shift. In the absence of an immigration officer, for example during the night, there should be an available immigration officer at the nearest CIC whom the security supervisor may contact for necessary guidance, or for a decision.

b) The duties of security staff include admitting and releasing detainees, supervising detainees, taking control of and accepting responsibility for luggage and other belongings of detainees (see IMM 5041 at App. R), ordering meals, completing reports, escorting and transporting detainees as well as other custodial and security-related duties.

i) Training

In response to previous local experience, Commission officials may decide that successful completion of a related training program may be a requirement for security companies who provide staff to detention centres. There are skills which would be particularly relevant to this kind of assignment. For example, courses in subjects such as conduct, ethics, tact and diplomacy, public relations and attitudes toward other cultures would provide useful information. It is expected that security staff will be educated in first aid, registration of property, report writing, legal powers, and bomb threats.

ii) Handling of Disruptive Behaviour

There is no "disciplinary policy" at detention centres. Disruptions in normal routine may take the form of behaviour which ranges from mildly disruptive to violent. In the less extreme example, it is expected that security staff would isolate the person(s) first in order to assess the situation. If a resolution is forthcoming, there is no need for further action, save a report of the incident for follow-up supervision.

iii) Transfers

Where there is a disturbance of a violent nature, or any incident where the immigration officer decides that the person should be in a more secure environment, such as a correctional centre, the Immigration Officer will arrange a transfer. The decision would be based on factors which lead the officer to form the opinion that the person may try to endanger him/herself or others, or that the person has the potential to escape custody. (see also 10.40 5)).

3. RIGHTS AND BEHAVIOUR OF DETAINEES

a) As persons in Canada, detainees have the same level of protection under the Canadian Charter of Rights and Freedoms as do all Canadians. They have the right to counsel which the Commission attempts to provide in an environment of privacy. They have a right to available medical services and a right to proper meals and lodging. The right to associate and to practice religion is available. All these rights are accorded in the existing setting of fairness and equal access, but within the necessarily controlled environment.

b) Detainees are free to report any complaints about the quality of care to the immigration officer. These concerns will be examined and if deemed to be justified, a remedy will be provided.

c) Detainees are expected to obey the rules of the detention centre and to conduct themselves in an orderly fashion. The Commission recognizes that persons who share the same language or cultural background may be less anxious if they share a room. Efforts should be made to accommodate such a request. Normally, the sharing of rooms by persons of similar backgrounds causes no difficulty. However, disruptive behaviour which results from shared accommodation or close proximity to friends or associates will not be permitted. (see para. 2 b)ii) and iii) above).

4. ACCOMMODATION REQUIREMENTS

a) It is recognized that while they are in the jurisdiction of CEIC detention facilities, detainees ought to be provided with a reasonable level of care which will maintain a state of good health and well being. This results from the provision of basic amenities, such as a health care service as described in these principles, nutritious meals and exercise facilities. The rooms where these persons sleep must not be overcrowded or poorly ventilated. A reasonable degree of privacy must be accorded.

b) Specifically, the following requirements must be taken into consideration when assessing contractors' bids for tender:

i) Meals

- The varied menu should provide a minimum of two choices daily for breakfast, lunch and dinner. The daily menu plan should be rotated so that the same choices are not offered on consecutive days. Meals should follow Canada's Food Guide as established by National Health and Welfare. Special meals are to be arranged for infants and children, persons on restricted diets based on medical or religious requirements, or any other person who establishes that a special dietary need exists. It is recommended that either a dietitian be employed to provide professional advice if the population warrants, or that monitoring of the meal service be considered to ensure nutritional needs are met.
- Meals should be served in a common area. The detainees may choose seating arrangements including the seating of family members who will want to be together.
- Form IMM 5026 - Meal Authorization - (see appendix "S") is available for use at any detention facility, as required.

ii) Exercise

- Those persons who are in detention for a continuous period of seven days or more must be given daily access to indoor and outdoor exercise. Space must be provided outdoors which is large enough to allow the detainees to walk about or to play some sports. The acquisition of such controlled space forms part of the basic requirements when negotiating contracts. It is a requirement in all seasons, as detainees must be allowed to have access to fresh air daily.
- Those who are in detention for short periods of a day or so may request to go outside to this area. These requests should be accommodated where feasible. The schedule for exercise should be one half-hour minimum.
- A common room which is designated for serving of meals may be converted to an indoor exercise room. An evaluation of the exercise needs of residents should be made in order to budget for equipment.
- The nature of the equipment and the amounts to be spent on purchasing such items is a local decision. Examples of equipment for the inside area include a stationary bicycle or a sit-ups bench. For outside exercise, a basketball net and ball, or a soccer ball would provide good exercise and would not be costly.
- Not every detainee will wish to participate in an exercise activity, but at least the opportunity should be availble to walk about and receive some fresh air.

iii) Room Configuration

- The Commission does not approve of overcrowding and regional officials must make their projections on the number of rooms required with a view to placing two persons, maximum three, in one bedroom. Family needs should always be considered, so that parents and children, or a husband and wife are able to be together, where it is at all feasible.
- On occasion, there may be a sudden increase in the number of inadmissible persons arriving who are subsequently detained. This results in a temporary overcrowding of detainees. Immediate efforts must be made to relieve this situation, including seeking responsible guarantors who may commit for these persons, and provide other shelter.

iv) Access to Counsel

As persons in Canada, whether refugee claimants or not, immigration detainees enjoy the same level of protection under the Canadian Charter of Rights and Freedoms as do all Canadians. This includes the detainees' right to counsel and the unrestricted use of a telephone to reach counsel for advice. It is recommended that a private area be designated for the purpose of allowing counsel to visit with the client. This area may form part of the common meal or exercise room and a room divider may be used to provide privacy; or an unoccupied room may serve the purpose.

v) Access to Religious Representative

All detainees will be informed at the outset of their detention that, if they wish, contact can be made with a representative of their religion, and visits will be arranged as circumstances permit, using the same rooms as set aside for counsel visits (see iv) above). In conjunction with local religious groups, lists of names, telephone numbers and religious affiliations will be posted in the facility.

vi) Privacy

Detainees may conduct private conversations with each other in the confines of their rooms. However, locks on doors are to be removed and where a solid door is provided it should be left slightly ajar at all times. This is not a jail, and the detainees are not prisoners; however, a degree of security must be instituted to allow for proper control of the detainees' movements. The security guards must be able to conduct their routine patrols in accordance with their list of duties, and an open door facilitates this function.

vii) Telephone

As mentioned, detainees are allowed to contact counsel by telephone. As well, schedules should be drawn up to allow detainees to make other local phone calls. The schedule should ensure fair and equal access for all detainees.

viii) Reading Material

- Detainees need to have access to reading material as a form of recreation. This material could appropriately be provided by interested volunteer groups who should assume the lead role in this activity.
- Regional officials should contact those agencies which have previously provided support to detainees, in order to seek their assistance in providing material to detention centres that meets the language needs of the detainees. Some regions already provide newspapers, magazines and books, and they may wish to continue this practice on a limited basis.
- The groups should be asked to initiate any ordering of periodicals on magazine subscriptions, and to co-ordinate lending privileges which may be extended by local libraries.

ix) Air Control Systems

A satisfactory rate of air exchange and circulation must be maintained year-round. Safeguards may have to be installed to prevent tampering of the climate control system. Regular checks of the system are needed to ensure the system is working well.

5. MEDICAL CARE

a) Unlike the Penitentiary Act, the Immigration Act does not require that every person who is detained under this legislation be provided with essential medical care. However, it has been the practice of the Commission that Immigration detainees should be treated as any other Canadian requiring medical assistance, and thereby be afforded the same level of care available to the general public.

b) As stated in the preamble, we are not in a position to impose our standards on publicly-owned facilities such as jails and hospitals. This is not, however, a concern since it has been demonstrated to our regional officials that adequate medical care is being provided. We do not expect to set higher standards than what currently exists in these institutions.

i) Medical Examinations

The decision to contract physicians and/or nurses to regularly attend detention centres is a local one, based on experience and need. Where medical staff do attend regularly, a schedule should be established in order for detainees to obtain advice and treatment. In centres without resident medical staff, detainees who need to be examined by a physician should be transported to the nearest hospital. In urgent cases, medical care ought to be brought directly to the centre by ambulance if need be.

ii) Admission to Centre

- Experience has shown that there is no need for a medical examination either at the point when the detainee is admitted to the centre or at some pre-determined point, such as one week later. Rather, each detainee's needs should be met as required.
- Should a detainee be admitted in possession of prescribed medication, he/she gives the medication to the security supervisor who records the drug, stores it for safekeeping, and issues it to the detainee according to the label, recording each issuance.

iii) Treatment of Illness or Injury and Dispensation of Drugs

- Should a detainee complain of illness or incur an injury, it is the Immigration Officer who makes the decision whether professional medical advice is required. If the injury is minor, the security supervisor or a member of the staff may administer first aid, such as for the treatment of cuts and bruises. Should there be any doubt whatsoever, immediate professional advice must be sought.

- Medication that is prescribed after admission may be issued to a detainee by the security supervisor. This medication shall be properly stored and each issuance shall be recorded. A non-prescription household drug such as aspirin may be issued by supervisory staff. In either instance, caution must be exercised to ensure the detainee's safety. For example, if a detainee complains of a headache, his/her records should be checked prior to issuing an aspirin to verify if any other medication has been ingested. Again, it is imperative that security staff and Immigration Officers confirm any doubtful situations with medical authorities. No medication (including aspirin) will be dispensed to children of detainees without prior consultation with medical authorities

iv) Special Services

- If a detainee complains of a physical ailment which appears to require the services of a specialist, for example a dentist or an opthamologist, the assessment of the need and the decision to obtain such services will be made by the immigration officer.
- Should a detainee exhibit behaviour which is disruptive or violent, or which may be symptomatic of a mental instability, the security staff have the obligation to isolate the person from the rest of the detainees. The immigration officer will decide whether such a person poses a danger to him/herself and others should he/she remain at the centre. The immigration officer has the authority to order the person transferred to a correctional facility where psychiatric services are more readily available. (see also 10.40 5)).
- Should a detainee request the services of a mental health professional, such as a phychologist or psychiatrist, the decision to seek this type of advice will be made by the immigration officer. The needs for counselling may already be available through a community group which provides aid to detainees.

6. LANGUAGE CONSIDERATIONS

a) Instructions regarding meals and other subjects covered in paragraphs 3 to 5 above are to be posted in as many foreign languages as possible (determined by the regular flow of clientele), as well as in English and French.

b) Separate, and clearly visible notices in the same languages concerning fire evacuation procedures are to be posted as well. As an added safety measure for those who cannot read, each detention facility in Ontario, Quebec and B.C. should also arrange for taped messages which should be repeated at each meal.

APPENDIX "B"
ANNEX I
Immigration Holding Centres

Quebec Region	OFFICE OF JURISDICTION
Immigration Holding Centre, Maritime Hotel, 1155, rue Guy, MONTREAL, P.Q. H3H 2K5 Tel: (514) 496-6594 FAX: (514) 496-1891	**Montreal Enforcement CIC**
Ontario Region	**OFFICE OF JURISDICTION**
Immigration Holding Centre, Plaza Hotel, 103 Cityview Drive, REXDALE, Ontario M9W 1H3 Tel: (416) 249-5866 FAX: (416) 264-0172	**Detention & Removals CIC, Mississauga**
Immigration Holding Centre, Celebrity Inn, 6355 Airport Road, MISSISSAUGA, Ontario L4V 1E4 Tel: (416) 677-7331 (Extension 156)	**Detention & Removals CIC, Mississauga**
Immigration Holding Centre, Holiday Inn 480 Riverside Drive West, WINDSOR, Ontario N9A 5K6 Tel: (519) 253-3006 FAX: (519) 254-2932	**Windsor CIC, Ontario**
Immigration Holding Centre, Village Inn, 5688 Falls Avenue NIAGARA FALLS, Ontario L2E 3P6 Tel: (416) 374-3575 (Hotel) (416) 374-2280 (CIC) ***(Summer Months Only)***	**Niagara Falls CIC, Ontario**
Immigration Holding Centre, Skyline Brock Hotel, 5865 Falls Avenue, NIAGARA FALLS, Ontario L2E 3P6 Tel: (416) 374-2280 FAX: (416) 374-3677 ***(All Other Months)***	
BC/Yukon Region	**OFFICE OF JURISDICTION**
Immigration Holding Centre, Airport Skyline, 3031 No. 3 Road, RICHMOND, B.C. Tel: (604) 666-1985 FAX: (604) 666-7349	**Vancouver Metro CIC**

APPENDIX "C"
Sample of IMM 5009

Employment and Immigration Canada / Emploi et Immigration Canada

VERIFICATION OF ADMISSION
VERIFICATION DE L'ADMISSION

PART A - PARTIE A CLIENT DETAILS - RENSEIGNEMENTS CONCERNANT LE CLIENT

Surname (on admission) - Nom de famille (à l'entrée) | Given Names - Prénom(s) | Sex - Sexe: ☐ Male - Homme ☐ Female - Femme

Date of Birth / Date de naissance: D - J M Y - A | Place and Country of Birth - Lieu et pays de naissance

Surname (at present) - Nom de famille (actuel) | Given Names - Prénom(s) | Home Telephone No - No. téléphone à la maison: Area Code / Ind. rég.

Address - Adresse | Apt. - App. | Telephone No. at Work - No. téléphone au travail: Area Code / Ind. rég.

City - Ville | Province | Postal Code - Code postal

Accompanying Family Members - Membres de la famille qui ont accompagné l'interessé

Names - Noms	Relationship - Lien de parenté

Date of Admission for Permanent Residence / Date d'admission aux fins de la résidence permanente: D - J M Y - A

Canadian Port of Entry - Point d'entrée au Canada

Name of Vessel - Nom du navire

PART B - PARTIE B OFFICE USE ONLY - BUREAU SEULEMENT

COST RECOVERY - ÉTAT DE RECOUVREMENT DES FRAIS

☐ Fee Paid / Droit acquitté — Receipt No. / Nº du reçu _____

☐ Exempt / Dispensé(e) — Reason / Raison _____

CERTIFICATION REQUIRED - NO DOCUMENTS ON FILE - ATTESTATION REQUISE - AUCUN DOCUMENT AU DOSSIER

☐ No landing record / Aucune fiche relative au droit d'établissement
☐ No Minister's Consent / Aucune autorisation du Ministre
☐ No visitor record / Aucune fiche du visiteur
☐ No student / employment authorization / Aucun permis de travail ou permis de séjour pour étudiant
☐ Certificate 19(1)(c) Immigration Act / Attestation - L19(1)(c)
☐ Certificate 19(2)(a) Immigration Act / Attestation - L19(2)(a)

DOCUMENTS REQUIRED - DOCUMENTS EXIGÉS

☐ IMM 56 Confirmation of Departure / Confirmation du départ
☐ IMM 1000 Immigrant Visa and Record of Landing / Visa d'immigrant et fiche relative au droit
☐ IMM 1097 Visitor Record / Fiche du visiteur
☐ IMM 1103 Employment Authorization / Permis de travail
☐ IMM 1208 Student Authorization / Permis de séjour pour étudiant
☐ IMM 1214 Exclusion Order / Mesure d'exclusion
☐ IMM 1215 Deportation Order / Mesure d'expulsion
☐ IMM 1220 Departure Notice / Avis d'interdiction de séjour
☐ IMM 1263 Minister's Permit / Permis pour entrer au Canada ou y demeurer
☐ IMM 1264 Extension of Minister's Permit / Prorogation de la durée de la validité d'un permis
☐ IMM 1203 Minister's Consent Pursuant to Sec. 55 of the Immigration Act / Autorisation du Ministre en application de l'article 55 de la Loi sur l'immigration

TO BE COMPLETED WHEN QUERY SUBMITTED BY MAIL - À REMPLIR LORSQUE LA DEMANDE EST ENVOYÉE PAR LA POSTE

Fees queried / SSOBL interrogé: ☐ Yes / Oui ☐ No / Non | I. D. Verified / Ident. vérifiée: ☐ Yes / Oui ☐ No / Non | Micro. No. - Nº du micro.

Mail verification of admission to / Envoyer par la poste la vérification de l'admission: ☐ Client / Au client ☐ C.I.C. / Au C.I.C.

Office - Bureau | C.I.C. File - Nº de dossier du C.I.C. | NHQ File - Nº de dossier de l'AC

Date Submitted - Présentée le | QRC Respondent - Répondant au CDR | Date Returned - Renvoyée le

Remarks - Observations

Name of Officer - Nom de l'agent

IMM 5009 AD-P (05-89)E

Canada

QRC - CD

APPENDIX "D"
Sample of IMM 689

Employment and Immigration Canada Emploi et Immigration Canada PROTECTED when completed / PROTÉGÉ une fois rempli

NOTICE OF RIGHTS CONFERRED BY THE VIENNA CONVENTION AND TO THE RIGHT TO BE REPRESENTED BY COUNSEL AT AN IMMIGRATION INQUIRY OR A HEARING
AVIS DES DROITS CONFÉRÉS EN VERTU DE LA CONVENTION DE VIENNE ET DU DROIT DE SE FAIRE REPRÉSENTER PAR UN CONSEILLER À UNE ENQUÊTE OU UNE AUDIENCE DE L'IMMIGRATION

Surname – *Nom de famille*	Given Names – *Prénom(s)*	File No. – *N° de référence*

Date of Birth / *Date de naissance* ➤ D–/ M Y–A	Country of Birth – *Pays de naissance*	Country of Citizenship – *Pays de citoyenneté*

Accompanying Dependents – Attach separate sheet, if necessary
Personnes à charge accompagnant le revendicateur – Joindre une feuille distincte, au besoin

Family Name / *Nom de famille*	Given Names / *Prénom(s)*	File No. / *N° de référence*	Date, Place and Country of Birth / *Date, lieu et pays de naissance*	M	F
				☐	☐
				☐	☐
				☐	☐
				☐	☐
				☐	☐
				☐	☐

The nearest representative of your government is:

Le représentant de votre gouvernement le plus près est :

APPLICABLE TO PERSONS ARRESTED OR DETAINED:

If you so request, an immigration Officer will inform the nearest representative of your government that you have been arrested and detained. Any communication addressed by you to the nearest representative of your government will be forwarded by an immigration Officer without delay. Your government representative will not be contacted at this time if you do not request it.

Do you want your government representative to be informed of your arrest and detention ? ☐ Yes ☐ No

À L'INTENTION DES PERSONNES ARRÊTÉES OU MISES SOUS GARDE :

Si vous en faites la demande, un agent d'immigration informera le représentant de votre gouvernement le plus près du fait que vous avez été arrêté(e) et détenu(e). Toute communication de votre part à l'intention de ce dernier sera transmise sans retard par l'agent d'immigration. Le représentant de votre gouvernement ne sera pas informé de la situation, pour l'instant, si vous ne faites pas de demande à cette fin.

Voulez-vous que le représentant de votre gouvernement soit informé de votre arrestation et de votre mise sous garde ? ☐ Oui ☐ Non

SUBSECTION 30(1) OF THE IMMIGRATION ACT PROVIDES AS FOLLOWS:

"Every person with respect to whom an inquiry is to be held shall be informed of the person's right to obtain the services of a barrister or solicitor or other counsel and to be represented by any such counsel at the inquiry and, subject to subsections (2) and (3), shall be given a reasonable opportunity, if the person so desires and at the person's own expense, to obtain such counsel."

Subsection 45(3) of the Immigration Act provides as follows:

Subsection 30(1) applies ... "with such modifications as the circumstances require, with respect to a hearing held pursuant to subsection 44(3) as if the hearing were an inquiry."

Counsel need not necessarily be a lawyer. It may be any person, organization or society interested in your welfare.

Your right to counsel may be exercised at any time before or during immigration inquiry proceedings.

If you are the subject of an inquiry caused to be held pursuant to paragraph 23(4)(a) of the Act (following a report under section 20) and you are not represented by counsel or are represented by counsel who, in the opinion of the adjudicator, is not ready or able to proceed, you shall be represented by a designated barrister or solicitor, at the minister's expense, unless you choose to appear at the inquiry without counsel.

If you cannot afford legal counsel, access to free legal aid may be made available to you.

LE PARAGRAPHE 30(1) DE LA LOI SUR L'IMMIGRATION PRESCRIT QUE :

«L'intéressé doit être informé qu'il a le droit de se faire représenter par un avocat ou autre conseiller et, sous réserve des paragraphes (2) et (3), se voir accorder la possibilité de le choisir, à ses frais.»

Le paragraphe 45(3) de la Loi sur l'immigration prescrit que :

Le paragraphe 30(1) s'applique ; — compte tenu des adaptations de circonstance, aux audiences prévues au paragraphe 44(3) comme si elles étaient des enquêtes.»

Il n'est pas nécessaire que ce conseiller soit avocat; vous pouvez choisir une personne, le représentant d'un organisme ou d'une société qui s'intéresse à votre bien-être.

Vous pouvez vous prévaloir de votre droit de recourir aux services d'un conseiller en tout temps, avant ou pendant l'enquête de l'immigration.

Si vous faites l'objet d'une enquête conformément à l'alinéa 23(4)(a) de la Loi (suite à un rapport aux termes de l'article 20 de la Loi) et vous n'êtes pas représenté par un conseil ou si vous l'êtes, celui-ci, selon l'arbitre, n'est pas prêt à agir ou en mesure de le faire, vous serez représenté, aux frais du ministre, par un avocat désigné à moins que vous ne choisissiez de comparaître sans conseil.

Si vous n'êtes pas en mesure de payer le coût des services d'un avocat, vous pourrez avoir accès à de l'aide juridique sans frais.

RECEIPT ACKNOWLEDGED – *REÇU*

Date

Signature of Person Concerned – *Signature de l'intéressé*

I ____ solemnly declare that I have forthfully and accurately interpreted in the language the information provided above, and that the person concerned completely understands the nature and effect of this notice, and made this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Je, ____, déclare solennellement avoir interprété fidèlement et exactement en ____ les renseignements indiqués ci-dessus, et que l'intéressé a entièrement saisi la nature et les effets du présent avis. Je fais cette déclaration solennelle croyant en conscience qu'elle est vraie et sachant qu'elle a la même force et les mêmes effets que si elle était faite sous serment

Signature of Person Making Declaration – *Signature du déclarant*

Declared before me ____

at ____

This ____ day of ____ 19 ____

Déclaré devant moi ____

à ____

ce ____ *jour de* ____ 19 ____

Signature of Authorized Officer – *Signature de l'agent autorisé*

mm dd yyyy

Canada

APPENDIX "E"
Sample of IMM 1213

Employment and Immigration Canada Emploi et Immigration Canada

NOTIFICATION OF RIGHTS CONFERRED BY THE VIENNA CONVENTION

AVIS DES DROITS CONFÉRÉS EN VERTU DE LA CONVENTION DE VIENNE

Full name of person concerned — *Nom complet de la personne concernée*	CIC and file no. — *CIC et nº de référence*	Date

The nearest representative of your government is:	*Le représentant de votre gouvernement au poste consulaire le plus près est:*

If you so request, an Immigration Officer will inform the nearest representative of your government that you have been arrested and detained. Any communication addressed by you to the nearest representative of your government will be forwarded by an Immigration Officer without delay. Your government representative will not be contacted at this time if you do not request it.

Si vous en faites la demande, un Agent d'immigration informera le représentant de votre gouvernement au poste consulaire le plus près du fait que vous avez été arrêté(e) et détenu(e). Toute communication de votre part à l'intention de ce dernier sera transmise sans retard par l'Agent d'immigration. Le représentant de votre gouvernement ne sera pas informé de la situation, pour l'instant, si vous ne faites pas de demande à cette fin.

Do you want your government representative to be informed of your arrest and detention? ☐ Yes ☐ No

Voulez-vous que le représentant de votre gouvernement soit informé de votre arrestation et de votre mise en état de détention? ☐ *Oui* ☐ Non

_____
Signature

I, _____
of _____
(address)
in the Province of _____
confirm that I am fluent in the _____
and English languages and that I have read over the contents of the foregoing document to the person whose signature appears thereon and that the said _____
_____ admitted to me in the _____ language that he understood, and he appeared to fully understand, the contents thereof.

Je, _____
domicilié(e) au _____
(adresse)
dans la province de _____
certifie que je m'exprime couramment en _____
_____ *et en français, que j'ai donné lecture du contenu du document ci-dessus au signataire dudit document et que ledit (ladite)* _____
_____ *m'a affirmé en* _____ *qu'il(elle) a compris, et il(elle) semble comprendre pleinement, le contenu dudit document.*

Dated at _____ in the Province of _____
this _____ day of _____ 19 __

Fait à _____ *dans la province de* _____
Le _____ *jour de* _____ 19 __

_____
Witness — *Témoin*

_____
Interpreter — *Interprète*

IMM. 1213 (09-81) Canada

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

APPENDIX "F"
Sample of IMM 1241

Employment and Immigration Canada / Emploi et Immigration Canada

REPORT UNDER SECTION 27 OF THE IMMIGRATION ACT
RAPPORT ÉTABLI AUX TERMES DE L'ARTICLE 27 DE LA LOI SU. L'IMMIGRATION

HEADQUARTERS USE ONLY – *RÉSERVÉ À L'ADMINISTRATION CENTRALE*

5 1

N 013 350 083

TO: DEPUTY MINISTER OF EMPLOYMENT AND IMMIGRATION
POUR: LE SOUS-MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

CASE SERIAL NO. - *Nº DE CAS INITIAL*

FROM: IMMIGRATION OFFICER
ORIGINE: L'AGENT D'IMMIGRATION

CLIENT ID - *ID DU CLIENT*

IN ACCORDANCE WITH SECTION 27 OF THE IMMIGRATION ACT, I HAVE TO REPORT THAT
CONFORMÉMENT À L'ARTICLE 27 DE LA LOI SUR L'IMMIGRATION, JE DOIS SIGNALER QUE

SURNAME - *NOM DE FAMILLE*

GIVEN NAMES - *PRÉNOMS*

NAME FLAG - *INDICATEUR DU NOM*

DATE OF BIRTH - *DATE DE NAISSANCE* 1 9

COUNTRY OF BIRTH *PAYS DE NAISSANCE*

COUNTRY OF CITIZENSHIP *CITOYEN DE*

PLACE OF BIRTH - *LIEU DE NAISSANCE*

☐ IS A PERMANENT RESIDENT WHO *EST UN RÉSIDENT PERMANENT QUI*

☐ IS A PERSON IN CANADA OTHER THAN A CANADIAN CITIZEN OR A PERMANENT RESIDENT WHO *QUI SE TROUVE AU CANADA, EST UNE PERSONNE AUTRE QU'UN CITOYEN CANADIEN OU UN RÉSIDENT PERMANENT, QUI*

TYPE OF CASE - *GENRE DE CAS*

OFFICE FILE NO. - *Nº DE RÉFÉRENCE DU BUREAU*

DATE SIGNED - *SIGNÉ LE* D - J M Y - A

OFFICE OF ISSUE - *BUREAU DE DÉLIVRANCE*

IMMIGRATION OFFICER - *AGENT D'IMMIGRATION*

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION.
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION.

IMM 1241 EP-P (11-88) B

Canada

SENIOR IMMIGRATION OFFICER
AGENT PRINCIPAL 1

APPENDIX "G"
Sample of IMM 705

Employment and Immigration Canada | Emploi et Immigration Canada

Originating Office — *Bureau d'origine*

File No — *N° de référence*

Date:

CITIZENSHIP REGISTRATION AND PROMOTION
P.O. BOX 7000
SYDNEY, N.S.
B1P 6V6

ENREGISTREMENT DE LA CITOYENNETÉ ET PROMOTION
C.P. 7000
SYDNEY (N.-É.)
B1P 6V6

The following information is provided for your consideration in the event an application for citizenship is made by the individual described below.

Les renseignements suivants vous sont transmis à titre d'information au cas où la personne concernée présenterait une demande de citoyenneté.

1. Surname and aliases — *Nom et noms d'emprunt*	Given names — *Prénoms*	Sex — *Sexe*
2. Place, country and date of birth — *Lieu, pays et date de naissance*	3. Present status in Canada *Statut actuel au Canada*	
4. Date and place of landing — *Date et lieu d'obtention du droit d'établissement*	5. Maiden name (if applicable) *Nom de jeune fille (s'il y a lieu)*	
6. Surname of spouse and aliases — *Nom et nom(s) d'emprunt du conjoint*	Given names — *Prénoms*	
7. Surname of father and aliases — *Nom et nom(s) d'emprunt du père*	Given names — *Prénoms*	
8. Surname of mother and aliases — *Nom et nom(s) d'emprunt de la mère*	Given names — *Prénoms*	
9. Names of others affected — *Nom des autres personnes concernées*		
10. Summary of adverse information — *Résumé des renseignements défavorables*		

Name of Immigration Officer — *Nom de l'agent d'immigration* (please print) (*en lettres moulées*)	Signature of Immigration Officer — *Signature de l'agent d'immigration* ▶

IMM 705 (1-85)

Canada

APPENDIX "H"
Sample of IMM 654

Employment and Immigration Canada / Emploi et Immigration Canada

PROTECTED WHEN COMPLETED
PROTÉGÉ UNE FOIS REMPLI

To be sent by "FAX" (819-953-8119) to Chief, Detentions (Enforcement) Immigration Program Delivery, NHQ

(See chapter IE 10.30)

À télécopier (819-953-8119) au Chef, Mises sous garde (Exécution de la Loi) Exécution du programme d'immigration, AC

(Voir chapitre IE 10.30)

MONTHLY DETENTION MONITORING REPORT
RAPPORT MENSUEL DE SUIVI DES MISES SOUS GARDE

Region / *Région* ▶ | Date of report / *Date du rapport* ▶ | Page ▶ of / *de*

1	2 Check / *Cochez* (√) only one / *seulement une case*			3	4	5
	Pre 1 1 89 refugee claimant / *Personne qui a revendiqué le statut de réfugié avant le 1 1 89*	Post 1 1 89 refugee claimant / *Personne qui a revendiqué le statut de réfugié après le 1 1 89*	Is not a refugee claimant / *N'est pas un demandeur du statut de réfugié*	Number of days detained / *Nombre de jours de détention*	Place detained / *Lieu de détention*	REMARKS - OBSERVATIONS

Canada

APPENDIX "I"
Sample of IMM 1457

Employment and Immigration Canada | Emploi et Immigration Canada

LOG - ALLEGED WAR CRIMINALS
REGISTRE - CRIMINELS DE GUERRE PRÉSUMÉS

CIC: _____ Page _____

Name (and personal details if any) Of Alleged War Criminal *Nom (renseignements personnels, au besoin) du criminel de guerre présumé*	Location in Canada including Address - if indicated *Lieu de résidence au Canada, y compris l'adresse, si connue*	If Applying Abroad Show Location *Si demande présentée à l'étranger, indiquer où*	Name & Address of Person Making Allegation and Date of Allegation *Nom et adresse de la personne qui a avancé les allégations et date de celles-ci*	Documentary Evidence (Show Yes or No) *Preuve documentaire (Oui ou Non)*	Disposition - Destination			
					To RCMP *A la GRC*	To Post Abroad *Au bureau à l'étranger*	Local File *Au dossier local*	To IRHD *A la DAC*

IMM 1457 (04-88)

Canada

APPENDIX "J"
Sample of IMM 1285

Employment and Immigration Canada / Emploi et Immigration Canada

NOTICE OF ARREST UNDER SECTION 103 OF THE IMMIGRATION ACT
AVIS D'ARRESTATION EN VERTU DE L'ARTICLE 103 DE LA LOI SUR L'IMMIGRATION

HEADQUARTERS' USE ONLY – *RÉSERVÉ À L'ADMINISTRATION CENTRALE*

5 2

P 010 610 095

TO SENIOR IMMIGRATION OFFICER – *POUR L'AGENT PRINCIPAL*

CASE SERIAL NO. – *Nº DE CAS INITIAL*

FROM IMMIGRATION OFFICER – *ORIGINE: L'AGENT D'IMMIGRATION*

CLIENT ID – *ID DU CLIENT*

IN ACCORDANCE WITH SUBSECTION 103(4) OF THE IMMIGRATION ACT, I MUST NOTIFY YOU THAT
EN VERTU DU PARAGRAPHE 103(4) DE LA LOI SUR L'IMMIGRATION JE DOIS VOUS AVISER QUE

SURNAME – *NOM DE FAMILLE*

GIVEN NAMES – *PRÉNOMS*

NAME FLAG – *INDICATEUR DU NOM*

DATE OF BIRTH – *DATE DE NAISSANCE* 1 9

COUNTRY OF BIRTH *PAYS DE NAISSANCE*

COUNTRY OF CITIZENSHIP *CITOYEN DE*

PLACE OF BIRTH – *LIEU DE NAISSANCE*

WAS ARRESTED ON *A ÉTÉ ARRÊTÉ(E) LE* _____ AT *À* _____ AM/PM AND DETAINED UNDER SECTION 103 OF THE IMMIGRATION ACT
H ET DÉTENU(E) EN VERTU DE L'ARTICLE 103 DE LA LOI SUR L'IMMIGRATION

☐ FOR INQUIRY BECAUSE THERE ARE REASONABLE GROUNDS TO BELIEVE HE/SHE IS A PERSON DESCRIBED IN PARAGRAPH
AUX FINS D'ENQUÊTE PARCE QU'IL Y A DE BONNES RAISONS DE CROIRE QUE CETTE PERSONNE EST VISÉE À L'ALINÉA _____
_____ OF THE IMMIGRATION ACT
DE LA LOI SUR L'IMMIGRATION

OR – *OU*

☐ FOR EXAMINATION
AUX FINS D'EXAMEN

OR – *OU*

☐ FOR REMOVAL
AUX FINS DE RENVOI

AND IN MY OPINION HE/SHE – *ET, À MON AVIS, CETTE PERSONNE*

☐ POSES A DANGER TO THE PUBLIC
CONSTITUE UNE MENACE POUR LE PUBLIC

AND/OR – *ET/OU*

☐ WOULD NOT APPEAR FOR INQUIRY, EXAMINATION OR REMOVAL
NE SE PRÉSENTERA PAS À L'ENQUÊTE OU À L'EXAMEN, OU N'OBTEMPÉRERA PAS À L'ORDONNANCE DE RENVOI

MY REASONS FOR FORMING THIS OPINION ARE: – *VOICI MES RAISONS:*

TYPE OF CASE – *GENRE DE CAS* 0 4

OFFICE FILE NO. – *Nº DE RÉFÉRENCE DU BUREAU*

DATE SIGNED – *SIGNÉ LE* D-J M Y-A

OFFICE OF ISSUE – *BUREAU DE DÉLIVRANCE*

IMMIGRATION OFFICER – *AGENT D'IMMIGRATION*

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

Canada

IMM 1285 EF-P (90-08)

SENIOR IMMIGRATION OFFICER 1
AGENT PRINCIPAL

APPENDIX "K"
Sample of IMM 420

Employment and Immigration Canada Emploi et Immigration Canada

WARRANT FOR ARREST

(Under subsection 103(1) of the Immigration Act)

MANDAT D'ARRESTATION

(Aux termes du paragraphe 103(1) de la Loi sur l'immigration)

To: **EVERY OR ANY IMMIGRATION OFFICER OR PEACE OFFICER**

Pour: TOUT AGENT D'IMMIGRATION OU AGENT DE LA PAIX

WHEREAS _____ is a person
ATTENDU QUE _____, *est une personne à*

respecting whom — *l'égard de laquelle*

- an examination is to be held ☐ — *un interrogatoire doit être tenu*
- an inquiry is to be held ☐ — *une enquête doit être tenue*
- a deportation order has been made ☐ — *une mesure d'expulsion a été rendue*
- an exclusion order has been made ☐ — *une mesure d'exclusion a été rendue*

under the terms of the Immigration Act, I hereby command you to arrest the said person and detain him, in accordance with the provisions of the Immigration Act.

aux termes de la Loi sur l'immigration, je vous ordonne par les présentes d'arrêter ladite personne et de la faire détenir conformément aux dispositions de la Loi sur l'immigration.

Dated at _____ this _____ day of _____ 19____
Fait à _____ *ce* _____ *jour de* _____ 19____

Authorized Officer — *Agent autorisé*

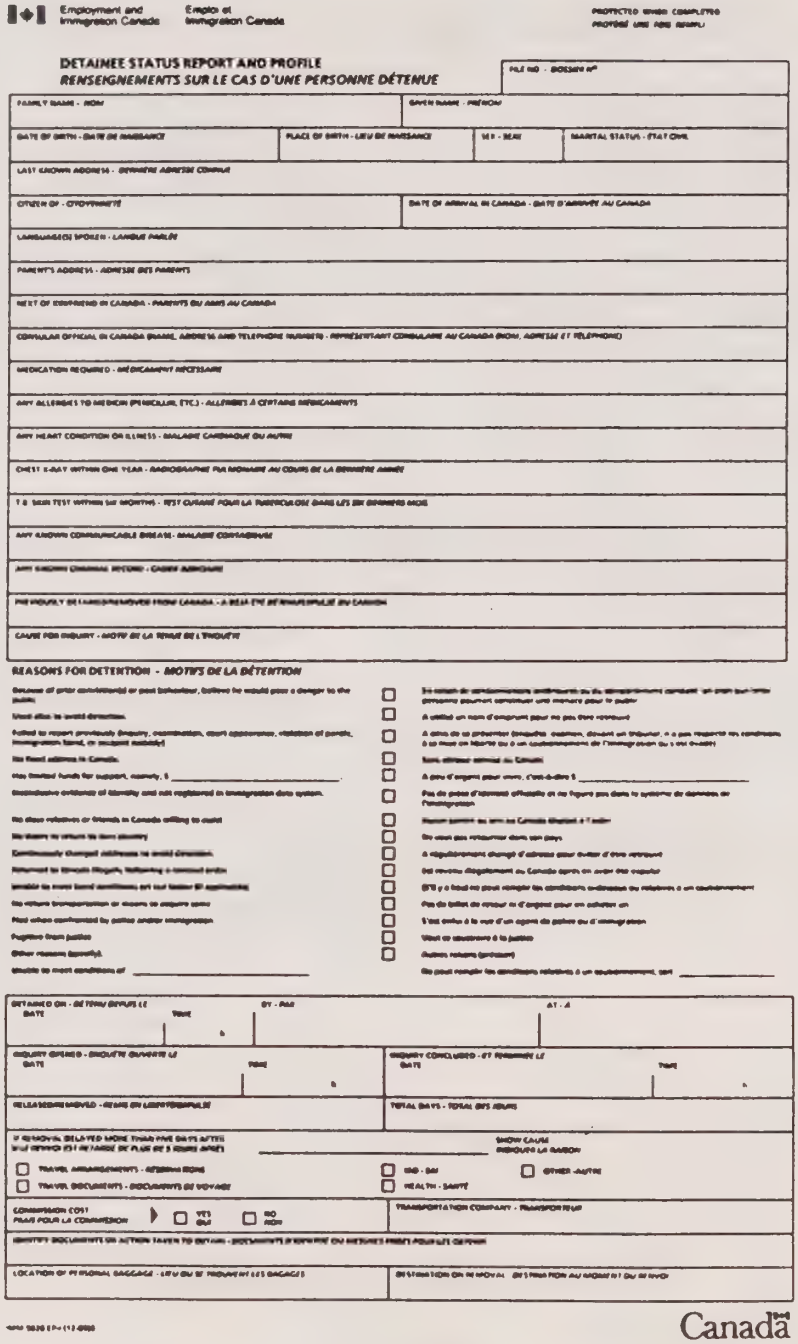
Title as delegated in Instrument — *Titre selon le Document officiel*
☐ I-17 or/ou ☐ I-29

This form has been established by the Minister of Employment and Immigration
Formulaire établi par le Ministre de l'Emploi et de l'Immigration

IMM 420 EP-P (10-88) B

Canada

APPENDIX "L"
Sample of IMM 5028



Employment and Immigration Canada / Emploi et Immigration Canada

DETAINEE STATUS REPORT AND PROFILE
RENSEIGNEMENTS SUR LE CAS D'UNE PERSONNE DÉTENUE

REASONS FOR DETENTION - *MOTIFS DE LA DÉTENTION*

Canada

APPENDIX "M"
Sample of IMM 5012

Employment and Immigration Canada | Emploi et Immigration Canada

PROTECTED WHEN COMPLETED - A
PROTÉGÉ UNE FOIS REMPLI - A

OPINION OF THE MINISTER
(PURSUANT TO 103.1(12) OF THE IMMIGRATION ACT.

OPINION DU MINISTRE
(PARAGRAPHE 103.1(12) DE LA LOI SUR L'IMMIGRATION.

I AM OF THE OPINION THAT _____

JE SUIS D'AVIS QUE _____

HAS SATISFACTORILY ESTABLISHED HIS IDENTITY ☐ *A ÉDICTÉ SON IDENTITÉ AVEC CERTITUDE*

IS NOT A PERSON DESCRIBED IN PARAGRAPH 19(1)(e), (f), (g) OR (j) OF THE IMMIGRATION ACT. ☐ *QU'IL (ELLE) N'EST PAS UNE PERSONNE VISÉE À L'UN DES ALINÉAS 19(1)e), f), g) OU j) DE LA LOI SUR L'IMMIGRATION.*

DATED AT / *DATÉ À* _____ IN THE PROVINCE OF / *DANS LA PROVINCE DE* _____

THIS / *EN CE* _____ DAY OF / *JOUR DE* _____ 19 _____.

_____
MINISTER OF EMPLOYMENT AND IMMIGRATION
MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM 5012 (04-90) E

Canada

APPENDIX "N–1"
Sample of IMM 1446

PROTECTED WHEN COMPLETED A

Employment and Immigration Canada Emploi et Immigration Canada

CERTIFICATE PURSUANT TO SUBPARAGRAPH 103.1 (2) (a) (i) AND PARAGRAPH 103.1 (2) (b) OF THE IMMIGRATION ACT

This is to certify that the identity of _____, detained pursuant to subsection 103.1 (1) of the Immigration Act, has not been established and that an additional period of detention is required to investigate his or her identity.

Dated at _____

in the province of _____

this _____ day of _____ 19_____

_____
Minister of Employment and Immigration

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION

IMM 1446 (04-90) E

Canada

APPENDIX "N–2"
Sample of IMM 5004

Emploi et Immigration Canada Employment and Immigration Canada

CERTIFICAT DÉLIVRÉ EN VERTU DU SOUS-ALINÉA 103.1(2)(a)(ii) ET L'ALINÉA 103.1 (2)(b) DE LA LOI SUR L'IMMIGRATION.

J'atteste, par la présente, que j'ai des raisons de croire que _____ qui est détenu(e) en application du paragraphe 103.1(1) de la Loi sur l'immigration pourrait rentrer dans une catégorie de personnes non admissibles visées à l'alinéa 19(1)(e), (f), (g) ou (j), de cette Loi, et qu'une période de détention supplémentaire s'impose pour instituer une enquête relativement à cette affaire.

Daté à _____

dans la province _____

en ce _____ jour de _____ 19 ___.

_____
Ministre d'Emploi et Immigration

IMMQ/IMM 5004 (05-90) B

Canada

APPENDIX "O"
Sample of IMM 5003

PROTECTED WHEN COMPLETED

Employment and Immigration Canada Emploi et Immigration Canada

AMENDMENT OF CERTIFICATE PURSUANT TO SUBSECTION 103.1(3) OF THE IMMIGRATION ACT

Whereas _____, hereinafter called "the person", is detained pursuant to subsection 103.1(1) of the Immigration Act and a certificate has been issued in accordance with subsection 103.1(2), I hereby amend the said certificate and certify that

☐ the person's identity has not been established,

☐ I have reason to suspect that the person may be a member of an inadmissible class described in paragraph 19(1)(__),

and that the person's detention is required for an additional period to investigate the matter.

Dated at _____

in the Province of _____

this _____ day of _____ 19___ .

_____
Minister of Employment and Immigration

IMM 5003 (02-9018

Canada

APPENDIX "P"
Sample of IMM 5023

Employment and Immigration Canada / Emploi et Immigration Canada

AUTHORITY TO RELEASE FROM DETENTION

AUTORISATION DE MISE EN LIBERTÉ

Full name of detainee
Nom au complet de la personne mise sous garde

Date of birth of detainee - *Date de naissance*

Name of detention centre - *Nom du lieu de garde*

Pursuant to the Immigration Act, you are hereby authorized to release the above-named person from Immigration detention, if that person is detained by you for no other cause,

Si la personne susnommée n'est pas gardée pour d'autres motifs que ceux liés à l'immigration, vous êtes, par les présentes, autorisé(e), aux termes de la Loi sur l'immigration,

- into the custody of the Canada Immigration Officer presenting this authority; ☐ *à en confier la garde à l'agent d'immigration du Canada porteur de la présente autorisation.*
- into the custody of the police officer or security guard presenting this authority; ☐ *à en confier la garde à l'agent de police ou à l'agent de sécurité porteur de la présente autorisation.*
- without condition. ☐ *à la mettre en liberté sans condition.*

Date of release - *Date de la mise en liberté*

Time of release - *Heure de la mise en liberté*

Name of Canada Immigration Centre
Nom du Centre d'immigration Canada

CIC File No - *N° de dossier du CIC*

Signature of Senior Immigration Officer - *Signature de l'agent principal*

Date

IMM 5023 EP-J (12-88) 1 DETENTION CENTRE - JAIL / *LIEU DE GARDE - PRISON*

Canada

APPENDIX "Q"
Sample of IMM 1439

Employment and Immigration Canada / Emploi et Immigration Canada

RELEASE HEARING

DATE | FILE NUMBER

Detainee's Name _____ On _____ 19 ____

I _____ a senior immigration officer conducted a release hearing concerning the above named detainee at _____ pursuant to subsection 103(5) of the Immigration Act

INTERPRETER PRESENT	COUNSEL	NECESSARY DOCUMENTATION REVIEWED
☐ YES ☐ NO	☐ YES ☐ NO	☐ YES ☐ NO
DATE AND TIME OF DETENTION	SENIOR IMMIGRATION OFFICER ADVISED OF DETENTION AT	RELEASE HEARING COMMENCED
____ AM/PM _____ DATE 19 ____	____ AM/PM _____ DATE 19 ____	____ AM/PM _____ DATE 19 ____

IN MY OPINION HE/SHE

1 ☐ POSES A DANGER TO THE PUBLIC, AND OR

☐ SHOULD NOT OTHERWISE APPEAR FOR EXAMINATION, INQUIRY OR REMOVAL

2 ☐ SHOULD BE RELEASED FROM DETENTION

NOTES - (INCLUDING REASONS FOR CONTINUED DETENTION OR RELEASE)

I HAVE ORDERED RELEASE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS

TYPE OF BOND: ☐ CASH ☐ PERFORMANCE ☐ CO-SIGNED ☐ ACKNOWLEDGEMENT

AMOUNT: $ _____

_____
SENIOR IMMIGRATION OFFICER

RELEASED ON

_____ AT _____ AM/PM

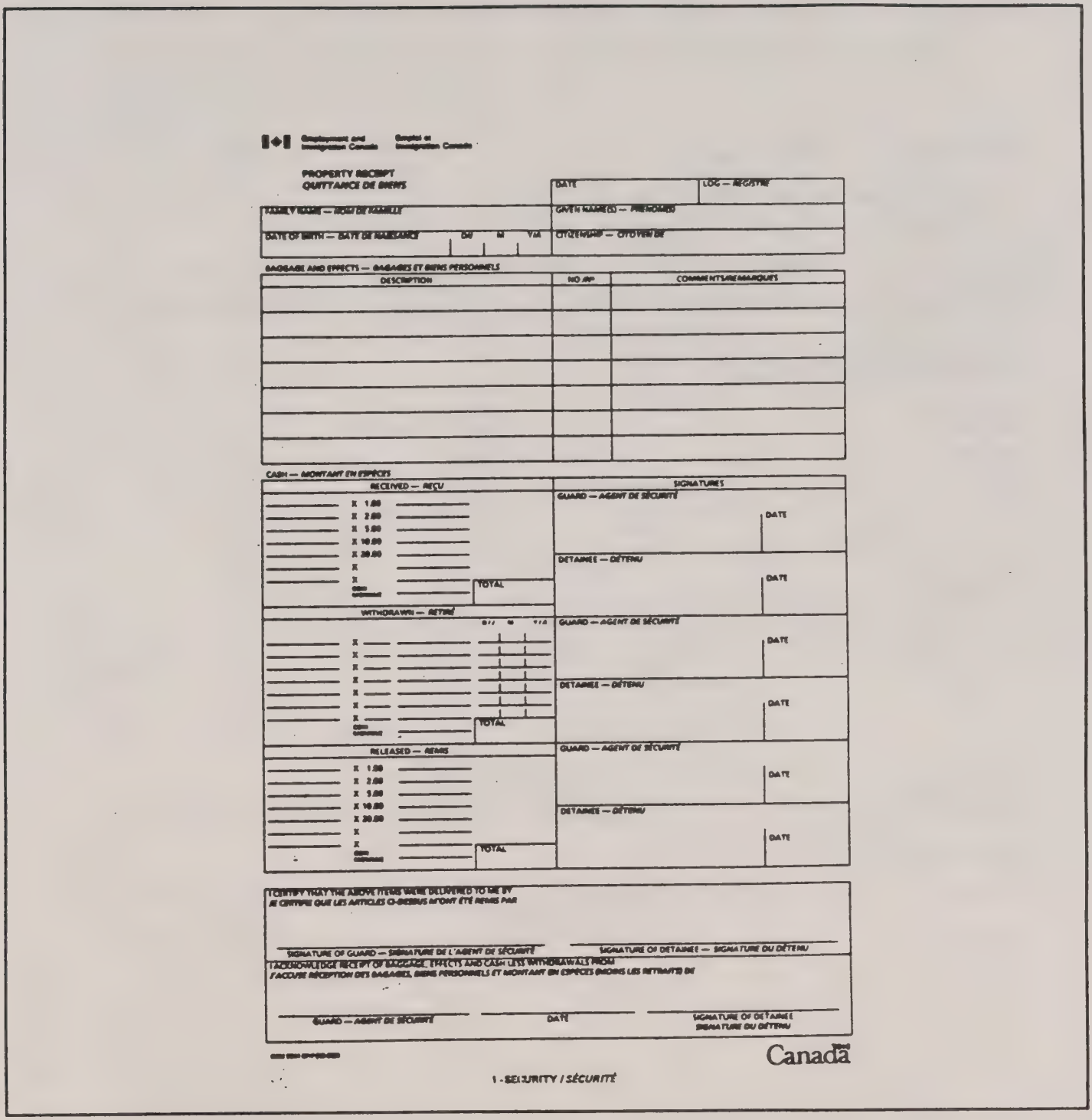
_____
IMMIGRATION OFFICER OR SENIOR IMMIGRATION OFFICER

IMM 1439-E (90-08)

Canada

FRANÇAIS AU VERSO

APPENDIX "R"
Sample of IMM 5041



Employment and Immigration Canada / Emploi et Immigration Canada

PROPERTY RECEIPT
QUITTANCE DE BIENS

DATE | LOG — REGISTRE

FAMILY NAME — NOM DE FAMILLE | GIVEN NAME(S) — PRÉNOM(S)

DATE OF BIRTH — DATE DE NAISSANCE DD M YR | CITIZENSHIP — CITOYENNETÉ

BAGGAGE AND EFFECTS — BAGAGES ET BIENS PERSONNELS

DESCRIPTION	NO. / NO	COMMENTS / REMARQUES

CASH — MONTANT EN ESPÈCES

RECEIVED — REÇU

X 1.00 _____
X 2.00 _____
X 5.00 _____
X 10.00 _____
X 20.00 _____
X _____
X _____
Coin / Monnaie _____
TOTAL

WITHDRAWN — RETIRÉ

DD / M / YR

X _____ _____
X _____ _____
X _____ _____
X _____ _____
X _____ _____
X _____ _____
X _____ _____
Coin / Monnaie _____
TOTAL

RELEASED — REMIS

X 1.00 _____
X 2.00 _____
X 5.00 _____
X 10.00 _____
X 20.00 _____
X _____
X _____
Coin / Monnaie _____
TOTAL

SIGNATURES

GUARD — AGENT DE SÉCURITÉ — DATE

DETAINEE — DÉTENU — DATE

GUARD — AGENT DE SÉCURITÉ — DATE

DETAINEE — DÉTENU — DATE

GUARD — AGENT DE SÉCURITÉ — DATE

DETAINEE — DÉTENU — DATE

I CERTIFY THAT THE ABOVE ITEMS WERE DELIVERED TO ME BY
JE CERTIFIE QUE LES ARTICLES CI-DESSUS M'ONT ÉTÉ REMIS PAR

SIGNATURE OF GUARD — SIGNATURE DE L'AGENT DE SÉCURITÉ

SIGNATURE OF DETAINEE — SIGNATURE DU DÉTENU

I ACKNOWLEDGE RECEIPT OF BAGGAGE, EFFECTS AND CASH LESS WITHDRAWALS FROM
J'ACCUSE RÉCEPTION DES BAGAGES, BIENS PERSONNELS ET MONTANT EN ESPÈCES (MOINS LES RETRAITS) DE

GUARD — AGENT DE SÉCURITÉ | DATE | SIGNATURE OF DETAINEE / SIGNATURE DU DÉTENU

Canada

1 - SECURITY / SÉCURITÉ

APPENDIX "S"
Sample of IMM 5026

Employment and Immigration Canada / Emploi et Immigration Canada

MA-00001

MEAL AUTHORIZATION – *AUTORISATION POUR REPAS*

To: / *Pour :* ▶ Name of facility – *Nom de l'hôtel ou du restaurant*	
This will introduce / *Nom du titulaire* ▶ Surname – *Nom*	Given name(s) – *Prénom(s)*
Date and time of arrival – *Date et heure d'arrivée*	Name of carrier and flight number – *Nom du transporteur et nº du vol*

You are hereby authorized to advance to the above – named person:
Vous êtes prié de fournir à crédit les services suivants à la personne susnommée :

Breakfast credit / *Petit déjeuner* ( ) X $ _____ to total of / *jusqu'à concurrence de* $ _____

Lunch credit / *Déjeuner* ( ) X $ _____ to total of / *jusqu'à concurrence de* $ _____

Dinner credit / *Diner* ( ) X $ _____ to total of / *jusqu'à concurrence de* $ _____

( ) nights accommodation to a total of
et une chambre durant ( ) nuits jusqu'à concurrence de ..... $ _____

for the period of
pour la période de _____ _____

Accounts should be submitted in triplicate and be accompanied by copy 2 of this authority to the following address:
Veuillez envoyer la feuille 2 du présent formulaire avec votre facture en trois exemplaires à l'adresse suivante :

Manager / *Le directeur*
Canada Immigration Centre / *Centre d'immigration du Canada*

_____

_____

☐ CEIC liability case / *Responsabilité de la CEIC*

☐ Transportation company liability case / *Responsabilité du transporteur*

CIC	Signature of Immigration Officer – *Signature de l'agent d'immigration*
File number – *Nº de dossier du CIC*	

IMM 5026 EP-P (12-88)B

Canada

CIC File / *Dossier du CIC* 3



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CHAPTER 11

INQUIRIES

AUTHORITY

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Canada Evidence Act

Canadian Bill of Rights

GENERAL INTENT

11.01 PROTECTION OF CANADIAN SOCIETY

To remove from Canada or to prevent the admission to Canada of persons who represent a threat to the health, safety, security, or good order of Canadian society; to deny the use of Canadian soil to persons who are likely to engage in subversive, terrorist, or criminal activity; to remove from Canada persons who do not or cannot comply with the requirements of the Immigration Act and Regulations.

11.02 RIGHTS OF INDIVIDUALS

To ensure that no person alleged to be in contravention of the Immigration Act shall be removed from Canada unless he has had the opportunity, in accordance with the principles of natural justice, to exercise his right to be heard at an inquiry before an independent adjudicator to establish why he should not be refused admission to or removed from Canada; to ensure that all rights to which an individual is entitled under the Canadian Bill of Rights are fully respected at immigration inquiries.

11.03 - 11.09 SPARES

GUIDELINES

11.10 PURPOSE AND NATURE OF INQUIRY

1) An inquiry under the Immigration Act is a hearing concerning a person who is alleged to be in contravention of one or more of the provisions of the Act or Regulations. The purpose of the hearing is to determine whether the person may be admitted, allowed to come into or remain in Canada as the case may be, or be deported, excluded or required to depart from Canada.

2) a) An immigration inquiry is a unique type of proceeding. The functions performed by an adjudicator are neither purely administrative, like those performed by a tax assessor or a licensing authority, nor purely judicial. They have been characterized by the Chief Justice of the Federal Court of Appeal as being of an administrative nature which includes the making of decisions on a quasi-judicial basis.

b) There are several consequences flowing from this characterization. First, the rules of natural justice, namely the right to know the case against oneself and the right to a hearing by an unbiased judge, apply to immigration proceedings. In addition, the decision of an adjudicator is reviewable by the Federal Court on questions of law and jurisdiction. On the other hand, the rules governing admissibility and presentation of evidence are much more informal than in judicial proceedings.

3) It has also been stated by the Courts that an immigration inquiry is not akin to a criminal proceeding in that the purpose of an inquiry is not to determine guilt or innocence. Another significant difference is that, in an immigration inquiry, the person concerned is usually the principal source of evidence presented on behalf of the Minister, while in criminal proceedings, the accused cannot be summoned as a witness for the prosecution. It has been held that the subject of an inquiry cannot refuse to answer questions on grounds of self-incrimination, although he may seek the protection of the Canada Evidence Act against use of this testimony in criminal proceedings.

11.11 ROLE OF THE CASE PRESENTING OFFICER

1) The case presenting officer (CPO) is an immigration officer who represents the Minister of Employment and Immigration in inquiry proceedings before an adjudicator. Although both he and the adjudicator are officials of the Canada Employment and Immigration Commission, their roles are quite distinct. The role of the CPO is to present the Minister's position before the adjudicator, and in his duties he is subject to the direction of the Minister. On the other hand, the adjudicator serves as an unbiased arbiter who must weigh the evidence presented at the inquiry by the CPO and the subject, and arrive at a decision. He is not to be involved in the presentation of the Minister's case. Although subject to general policy guidance, he is not subject to direction in individual cases.

2) While the inquiry proceedings are adversial in nature and the principal role of the CPO is to present the Minister's case, at all times in the exercise of his functions he should consider himself as a disinterested public official rather than a partisan. Instead of seeking at all costs to win his case, he should perceive his duty as that of setting all the relevant evidence fairly before the adjudicator. This is particularly important in cases where the subject of the inquiry is not represented by counsel. CPOs should at all times be courteous in their interrogation of witnesses, and refrain from using entrapment or intimidation to secure evidence in support of their case. This manner of exercising their functions will bring credit to themselves and the Commission in general.

11.12 LEGAL BASIS FOR INQUIRIES

A SIO shall cause an inquiry to be held under the following circumstances:

1) Pursuant to a Report Under A20(1) when a Person is Seeking Admission

a) When, after receipt of an A20(1) report, a senior immigration officer decides not to grant admission or otherwise authorize that person to come into Canada or to allow him to leave Canada forthwith, he must, in accordance with A23(3), cause an inquiry to be held.

b) The report under A20(1) must be in writing and must set out the specific provision(s) of the Act and Regulations by reason of which the examining officer is of the opinion that the person should not be admitted to Canada, or cannot come into Canada as of right. This report is the legal document that gives a SIO the jurisdiction to cause an inquiry to be held and it must, therefore, be correct in all respects.

2) Pursuant to a Direction Under A27(3)

a) It is the duty of immigration officers and peace officers to make written reports on persons who fall within one or more of the classes described in A27(1) and A27(2).

b) On the basis of the written report and other available information, the Deputy Minister or his delegate will decide, subject to any order or direction by the Minister, whether an inquiry will be held. If it is decided that an inquiry is warranted, a written direction must be issued. Authority for this action is contained in A27(3). It is this written direction that gives the SIO the jurisdiction to cause an inquiry to be held. Appropriate delegations of authority for the receiving of reports and signing of such directions will be found in IL 3.

3) Pursuant to an Arrest Under A104

a) A senior immigration officer (SIO) shall cause an inquiry to be held when a peace officer or immigration officer has arrested and detained any person, with or without a warrant or direction. The authority for him to cause an inquiry to be held in such cases is found in A28.

b) In all cases where the individual has been detained pursuant to A23(3)(a) or A104, the inquiry must be held forthwith. If this is not possible, the SIO may, in accordance with A104(5), review the reasons for the detention and release the person subject to such terms and conditions as he deems appropriate. Such a release would not cause a SIO to lose his jurisdiction to cause an inquiry to be held, on the basis that the person is no longer in detention. The authority of the SIO to cause an inquiry to be held comes from the fact that the person has been arrested and detained for inquiry because an immigration officer has indicated that there are reasonable grounds to suspect the person to be under the particular subsection referred to in A104(2)(a) and that there was at the outset a concern for public safety or a lack of appearance for inquiry. Even though the public safety or lack of appearance factors do not apply once the person is released from detention, the reasonable grounds under A104(2)(a) must still be considered.

11.13 REVIEW BY SENIOR OFFICER BEFORE INQUIRY

1) In the case of a person seeking to come into Canada, a SIO is responsible for conducting any review he may consider to be necessary to determine whether the person may come into or be admitted to Canada or whether an inquiry must be held. The SIO has the discretionary power outlined in A19(3) and may use it when he judges that an inquiry is not warranted.

2) For all inland removal cases other than illegal residents arrested without warrant, the Deputy Minister or his delegate determines whether an inquiry is warranted. If the offence is minor and there are strong compassionate or humanitarian factors involved, he may determine an inquiry is undesirable under the circumstances.

11.14 VENUE OF INQUIRY AND REQUEST FOR CHANGE OF VENUE
(This section should be read along with IE 11.56)

The venue of an inquiry is determined by the SIO once he has reviewed the case and caused an inquiry to be held. During the inquiry process the adjudicator presiding over the inquiry determines the venue of the inquiry. A change of venue of an inquiry may be allowed either before the beginning of the inquiry or during the inquiry. Procedures concerning the above are found in IE 11.56.

IE 11.15

11.15 BURDEN OF PROOF

1) It is necessary to distinguish between the burden of proof and the burden of introducing evidence. The burden of proof refers to the overall burden to establish the case. It remains throughout the inquiry on the same party. In the case of persons seeking to come into Canada, A8(1) places the burden of proof on them; in inland inquiries under A27, the burden of proof is on the Minister. Where the burden of proof is on the subject of the inquiry, this should not be considered to absolve the Minister of the obligation to present evidence. The courts have ruled that the Minister has an obligation to substantiate his case, even where the person seeks admission to Canada; and in A19(1)(h) cases, the removal order will be set aside if the Court finds that there was no evidence upon which the adjudicator could have reasonably arrived at his decision. The real significance of the burden of proof is that, if the evidence is found to be contradictory at the conclusion of the inquiry, the adjudicator is entitled to find that the person on whom the burden of proof rested has not discharged it.

2) The burden of introducing evidence could be defined as the obligation to introduce evidence of a fact so that it might be considered by the adjudicator. The burden shifts from one party to the other throughout the inquiry. The Regulations place the initial burden of introducing evidence on the CPO, whether the person is seeking admission or not; it then shifts to the subject of the inquiry and back to the CPO.

3) It should also be kept in mind that the burden of proof required is one of probabilities rather than proof beyond a reasonable doubt, the latter being the rule only in criminal matters.

11.16 RIGHTS OF PERSON CONCERNED

1) The Immigration Act and Regulations have been drafted to ensure that all rights to which an individual is entitled under the Canadian Bill of Rights are fully respected. These rights, as they apply to immigration inquiries, are the following:

   a) The right to be informed without delay of his right to retain and instruct counsel.

   b) The right to a determination of the validity of his detention and for his release if the detention is not lawful.

   c) The right to a fair hearing in accordance with the principles of natural justice for the determination of his rights and obligations.

   d) The right to the assistance of an interpreter in any proceedings in which he is a party or a witness before a court or tribunal, if he does not understand or speak the language in which such proceedings are conducted.

2) The Immigration legislation has also traditionally provided the right to have the hearing held in camera. However, on October 15, 1985, A29(3) was amended to allow for an inquiry to be held in public provided it is established to the satisfaction of the Adjudicator, upon application by a member of the public, that there will be no ill-effects from such public proceedings.

11.17 APPLICABILITY OF OFFICIAL LANGUAGES ACT TO INQUIRIES

Every person, including permanent residents, visitors and members of the travelling public is entitled to service in both official languages. Commission policy requires that each person be given an inquiry in the official language of his choice, thus ensuring that the subject is not placed in a position of not fully understanding what is said. For the same reason, CPOs are required to use the official language chosen by the person concerned.

11.18 EVIDENCE

When presenting evidence, there are two principal considerations to be kept in mind by the CPO:

1) Admissibility

a) In judicial proceedings, there are strict rules governing admissibility of evidence. The two basic rules are the best evidence rule and the rule against hearsay evidence. The former requires that the evidence be the best of which the case in its nature is susceptible. This means that secondary evidence cannot be received unless the primary evidence is unavailable. The hearsay rule is that even if the primary evidence is unavailable, hearsay evidence is not admissible, except in a few clearly defined cases.

b) These basic rules are not applicable in immigration proceedings. A30(2) provides that an adjudicator may at an inquiry receive and base his decision upon evidence adduced at the inquiry and considered credible or trustworthy by him in the circumstances of each case.

2) Weight of the Evidence

While most evidence may be admitted by an adjudicator, secondary or hearsay evidence may carry little weight if it is relied upon when the primary evidence is available. For example, use of a statutory declaration executed by an immigration officer who is reasonably available to testify would deprive the subject of the inquiry of the opportunity to cross-examine, thereby detracting from the quality of the evidence. As a general rule, therefore, CPOs should, wherever possible, attempt to secure the best evidence. Where this is unavailable or would create great expense or major administrative difficulties, the adjudicator may be asked to accept secondary evidence. The decision to rely upon primary or secondary evidence should take into account such factors as the importance of the case to the Minister, the strength of other aspects of the case, the need to avoid lengthy detention while awaiting the best evidence, the danger to the public, etc. It should also be kept in mind that the weaker the evidence compared to that likely to be adduced by the subject of the inquiry, the more likely the possibility that the adjudicator will admit the person or allow him to remain in Canada.

IE 11.18

3) There are several types of evidence that may be relied upon by CPOs:

a) Admissions

One of the best forms of evidence is the person's own admission, provided it is not secured by entrapment or intimidation. After receiving an admission, it is permissible for the examining officer to ask the subject to confirm it in writing. Should the subject fail to renew the admission at the inquiry, the CPO could confront him with the signed statement. The examining officer might alternatively be summoned to establish the admission by testimony.

b) Presumptions

A presumption is an assumption that the law requires to be made from another fact or group of facts found or otherwise established at the inquiry. For example, pursuant to subsection 24(2) if it is established that a permanent resident has left Canada for more than 183 days, and is not in possession of a returning resident permit, then the law presumes (deems) that he has abandoned Canada. Presumptions are not conclusive, rather, they have the effect of shifting the burden of introducing evidence. Thus, if a person satisfies an immigration officer or an adjudicator that he did not intend to abandon Canada as his place of permanent residence, the presumption will be rebutted.

c) Documentary Evidence

i) In general, any documentary evidence may be accepted by an adjudicator. However, official documents such as passports, certified court records, etc. carry more weight than unofficial documents, and original documents carry more weight than copies.

ii) Statutory declarations have the same effect as testimonies under oath. However, their contents may be of less value than oral testimony because they are not subject to cross-examination. If a witness, who is subject to cross-examination, testifies to facts contrary to the contents of the declaration, the adjudicator may give greater credence to this evidence.

iii) Statutory declarations may be used when the declarant's testimony would not likely be tested on cross-examnination. The best example would be a declaration concerning a recorded fact (date of admission) when the declarant has no personal memory of the event but relies on a written record. In this case, little would be gained on cross-examination as the witness would not remember the event but merely rely on the contents of the written record. Statutory declarations may also be used when the evidence is not decisive and calling the declarant would result in administrative inconvenience or lengthy delays.

iv) The Federal Court of Appeal has frowned upon the practice of asking permanent residents and persons temporarily in Canada to make statutory declarations since the person may not realize the importance of the matters to which he is solemnly declaring. Should the person making the declaration not fully appreciate what he is doing, it may appear that the person was entrapped and that the Commission obtained the statutory declaration for self-serving purposes.

d) Testimony

The best form of testimony is that given by a witness relating facts of which he has personal knowledge; positive evidence (that actually observed or known) carries more weight than negative evidence (that which was not seen or is unknown); direct evidence is preferable to circumstantial; and opinion evidence only has value if it is given by an expert. Hearsay evidence, while admissible, carries little weight.

11.19 EXAMINATION OF WITNESSES

The examination or cross-examination of witnesses, especially those with interests opposed to the examiner, is a difficult exercise. It may be useful, however, to keep the following general rules in mind:

1) Prior to the inquiry, the report or direction should be scrutinized to determine the essential evidentiary requirements.

2) CPOs should always have a plan for questioning. The practice of preparing a mechanical list of questions which is rigidly followed should be avoided; however, a list of the general areas to be covered is useful.

3) In general, questioning should be subtle rather than obvious. Instead of asking a single direct question, which may suggest the evidence sought to be elicited, several less obvious questions might be posed. Succeeding questions should be built on the answers received. It may be necessary to modify the evidentiary plan depending upon the answers received.

4) Leading questions, which suggest an answer, should in general be avoided, not because they are improper, but because answers to questions of this nature are not convincing. They are useful, however, in some instances on cross-examination, particularly when confronting the subject with contradictory evidence which he has given.

5) Cross-examination should only be resorted to or continued where it is likely to serve some useful purpose, either by clarifying the person's own testimony or adding to it if it is incomplete. As an alternative to cross-examination, the introduction of evidence through other witnesses might be considered.

6) The CPO should note the important testimony of witnesses as the inquiry proceeds, and rely upon it in his submission to the adjudicator.

11.20 INCLUSION OF FAMILY MEMBERS

In accordance with A33, dependent family members may be included in a deportation order or departure notice against the head of family. This may be desirable to avoid the separation of families and the possible abandonment of dependants when the head of family must be removed from Canada. However, family members cannot be included in such an order unless evidence has been adduced at the inquiry establishing to the adjudicator that the family members are in fact, dependent upon the head of family. No person shall be so included unless he has been given an opportunity of establishing that he should not be so included. Furthermore, Canadian citizens and permanent residents eighteen years of age or over cannot be included in an order of deportation or departure notice against the head of family. Family members, by virtue of their possible inclusion in the order are, of course, entitled to all the same rights and privileges as the head of family in accordance with A33(2) and R27(1). When dependent family members are included in a deportation order, they do not require Minister's consent under A57 to return.

11.21 SPARE

11.22 ALTERNATIVES TO DEPORTATION

1) Persons seeking admission to Canada who are unable to satisfy an immigration officer of their admissibility may, in accordance with A20(1)(b) and A23(3)(d), be allowed to leave Canada immediately rather than proceed to inquiry. Those persons electing or required to proceed to inquiry who are found to be medically inadmissible, unable to support themselves and their dependants, non-genuine visitors or immigrants, persons seeking to come into Canada without Minister's consent under A57, or any accompanying family members of the above, would be ordered excluded from Canada and would not be re-admissible for a twelve-month period except with consent of the Minister. An individual seeking admission to Canada would be ordered deported if he had been involved in, or was likely to engage in, subversive, terrorist, or criminal activity.

2) Permanent residents are subject to deportation only for serious offences and after a full inquiry with the right of appeal.

3) Visitors and illegal residents are subject to deportation for serious offences but may, in accordance with A32(6), be issued a departure notice when the adjudicator considers that having regard to all the circumstances of the case a deportation order ought not to be made against the person and that he will leave Canada by a specified date. A departure notice does not disqualify persons from returning to Canada at any future time provided they can, at that time, satisfy the requirements for admission.

4) Holders of a Minister's Permit need not proceed to inquiry if the Commission wishes to have that person removed from Canada. In accordance with A37(4) to (6), a Minister's Permit may be cancelled at any time and a removal order made against the person to whom the Permit was issued.

11.23 - 11.24 SPARES

11.25 REQUESTS FOR ADJOURNMENT

Under R35, an adjudicator presiding at an inquiry may adjourn the inquiry at any time for the purpose of ensuring a full and proper inquiry. The following are examples suggested to guide case presenting officers as to what may warrant an adjournment within the spirit of R35:

1) a) To obtain counsel;
   b) To obtain additional witnesses;
   c) To permit the production of relevant documents;
   d) To have the person concerned medically examined or to secure additional medical evidence;
   e) To consult with the Registrar of Canadian Citizenship;
   f) To consider humanitarian or compassionate grounds;
   g) To replace an inadequate interpreter or non-legal counsel;
   h) To determine a claim to refugee status or Canadian citizenship;
   i) To allow time to study the evidence before making a submission.

2) A43(2) requires the Commission to notify the Minister responsible for the Citizenship Act when an inquiry is adjourned for consideration of a claim to Canadian Citizenship. A43(1) also puts the onus on the claimant to apply fortwith for a certificate of citizenship pursuant to subsection 11(1) of the Citizenship Act (see also 11.49).

11.26 INQUIRY VIS-A-VIS EXTRADITION

1) Extradition is a legal procedure based on a treaty between two countries, by which a fugitive foreign criminal, or person wanted for certain stipulated offences, will be delivered to the proper authorities in the country from which the request originates. Canada maintains extradition agreements with a number of countries. Extradition proceedings are carried out at the request of the country in which the person is wanted. Although the Commission has the legal right to proceed with an inquiry and order removal of a person subject to extradition proceedings, a conflict of jurisdiction between the Commission and courts and police authorities could be created if, for any reason, they did not wish to surrender custody to the Commission. Conflict of jurisdiction situations with police or courts may arise where the Commission begins inquiry action simultaneously with or subsequent to the commencement of extradition proceedings in the case of fugitives from justice. Such conflicts at times give rise to criticisms that the Commission is attempting to replace extradition with deportation. In order to avoid conflicts, it is the policy of the Commission to cooperate with police authorities and courts, insofar as is consistent with our obligations under the Immigration Act and our usual policies and procedures, that the rights of individuals are respected and protected.

2) The following guidelines will apply when there is interaction between extradition and inquiry proceedings:

   a) If A20(1) report is made or an A27(3) direction is forwarded to a SIO prior to the commencement of extradition proceedings, the inquiry will be held in the normal manner.

b) If extradition proceedings are initiated prior to an A27(3) direction being made, no inquiry action should be taken until extradition proceedings are finalized.

c) Should extradition not be granted, or an extradited person be released in his own country before trial and return to Canada, inquiry action may be taken in the normal manner.

11.27 FOREIGN CONVICTIONS - FEDERAL COURT OF APPEAL DECISIONS

Two Federal Court of Appeal decisions seriously affect the manner in which a foreign conviction is considered with a view to establishing its Canadian equivalent. The process for determining equivalency outlined by the Court is complicated. Unless it is followed exactly, adjudicators may have no choice but to find that, for technical reasons, subjects of inquiries are not persons described in one or the other of the criminal provisions of the Act. This will particularly apply where the burden of proof is on the Commission. See Appendix "A" for summaries of the relevant Federal Court decisions.

11.28 SPARE

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PROCEDURES

11.29 SPARE

11.30 REVIEW OF REPORT OR DIRECTION BY SENIOR IMMIGRATION OFFICER (see also IE 2.35)

The authority of a senior immigration officer (SIO) to cause an inquiry to be held cannot be exercised unless the form and content of a report under A20(1), a direction under A27(3), or an arrest under A104 is in accordance with the Act and Regulations governing such procedure.

1) A20(1) Report (IMM 1093)

In reviewing an A20(1) report, the SIO should direct his attention to the following points:

a) It must be in writing;

b) It should indicate place and date of issue;

c) It must be addressed to a senior immigration officer, issued and signed by the immigration officer who conducted the examination which resulted in the making of a report;

d) It must contain the exact section and particulars of the Act upon which the immigration officer who conducted the examination reached the opinion that the person subject of the report should not be admitted to Canada or cannot come into Canada as of right;

e) The name of the individual must be complete and correctly spelled. Abbreviations such as "AKA" (also known as), s/o (son of), etc., should not be used;

f) In cases where the sections of the Act are not specific in themselves, the report must indicate the grounds for applying such sections. For example, in applying A19(1)(c) it is not sufficient to state that the individual has been convicted of an offence. The report must specify the grounds for that statement: e.g., "He has been convicted of an offence namely in _____ on _____ that if committed in Canada would be an offence under the _____ for which a maximum term of imprisonment of ten years or more could be imposed and his admission to Canada has not been authorized by the Governor-in-Council."

g) i) There may be instances where a SIO, after reviewing an A20(1) report, finds:

A) that the grounds cited in the report are not valid, but in his opinion the person concerned falls within some other inadmissible class; or

B) there is an additional ground for inadmissibility.

ii) In such cases, the law requires that the rules of natural justice be observed in that the person concerned be accorded the earliest possible notice of all the grounds against him.

iii) Accordingly, the SIO should correct or amend the original A20(1) report and sign his name just below the correction or amendment, as the case may be.

iv) A copy of the amended report must be given to the person concerned and also should be sent to the examining officer who initiated the report.

2) A27(3) Direction (IMM 1246) (see App. "D")

On examining the A27(3) direction, the senior immigration officer should direct his attention to the following points:

a) It must be the result of a written report under A27(1) or A27(2);

b) It must be in writing;

c) It must be signed by the Deputy Minister or an official authorized pursuant to A123 to act on his behalf. The relevant delegation of authority will be found in IL 3;

d) It should indicate place and date of issue; and

e) It must cite the provisions under A27 that have caused the direction to be issued;

f) It should have attached to it a copy of the report under A27(1) or A27(2) on which the direction is based.

3) If a person requests a permit after the issuance of a direction, but before the opening of the inquiry, then the individual should be advised that the issuance of a permit is delegated to the level of the person issuing the direction for inquiry and all the circumstances of the case, including any exceptional grounds which may warrant a permit, were considered before a direction was issued. Of course, if new information brought to light now indicates that a permit is warranted, then the direction should be withdrawn and a permit issued.

11.31 POSSIBLE CLAIM TO CANADIAN CITIZENSHIP BEFORE SCHEDULING OF INQUIRY

Should the senior immigration officer detect the possibility of Canadian citizenship, he should investigate or cause an investigation of this matter to be initiated before taking any further steps to cause an inquiry to be held. In questioning the person in this regard, SIOs should be fully cognizant of paragraph 5(2)(b) of the Citizenship Act which deals with a person who was born

outside of Canada before February 15, 1977, of a mother who was a Canadian citizen at the time of birth but who was not eligible for citizenship under the old Act. Such a person, under the new Citizenship Act, is not considered to be a citizen but is entitled to citizenship upon application without having to become a permanent resident and must be permitted to proceed with his application.

11.32 NOTICE TO PERSONS CONCERNED

* 1) Notification to Adjudicator (IMM 1243, see App. "E")

Once the SIO is satisfied that the A20(1) report, A27(3) direction, or arrest pursuant to A104 is in accordance with the law, thus giving him jurisdiction to cause an inquiry to be held, he shall notify an adjudicator accordingly, and may advise him of the date, time, and place of inquiry. In
* cases where the person is detained, the inquiry must be scheduled immediately. The adjudicator may issue a summons (IMM 1233) (see App. "F") to the person concerned commanding his appearance at the Inquiry.

2) Notification to Persons Concerned

The SIO will ensure that, in all cases, the subject of the Inquiry is presented with a properly completed Notice of Inquiry (IMM 1234) (see
* App. "G") and appropriate attachments (IMM 689, copy of the report, etc.) in order that the subject will have prior knowledge of the allegations against him. In all cases where the SIO is aware that the subject has selected counsel, duplicate documents should be sent to the person's counsel.

3) Ensuring Persons Concerned are Aware of Nature of Inquiry Proceedings

a) In the interests of justice and fair play, the subject of an Inquiry should fully understand the nature and purpose of the proceedings. For this reason, it has been decided to distribute a copy of the pamphlet "Facts About Immigration Inquiries" to everyone facing inquiry under the Act.

b) A copy of "Facts About Immigration Inquiries" (cat. no. WH 5021) should be given to every person concerning whom an inquiry is to be held or might be held. Pamphlets should be issued in the following circumstances:

i) To the subject of a 20(1) report where the SIO causes an inquiry to be held;

ii) To any person reported pursuant to 20(1) who is allowed into Canada under bond and where a date for inquiry is scheduled in the event that the person concerned does not leave;

iii) To the subject of 27 report where an inquiry is directed;

iv) To any person arrested for inquiry pursuant to A104 as soon as is practicable following the making of the arrest;

v) To any person facing inquiry who has not previously received a copy of the pamphlet.

c) This should not be interpreted as requiring enforcement officials to make extraordinary efforts to ensure that every person facing inquiry receives a copy of the pamphlet. It is sufficient that when the opportunity occurs during normal contact with a person facing inquiry, that he be given a copy of the "Inquiries" pamphlet. It is not, for example, necessary to conduct a special mailing of the pamphlet to the person concerned. In "inland" cases, a copy of the pamphlet could be included with the letter notifying the person of the time and place of the inquiry.

d) Furnishing a copy of this pamphlet does not satisfy the requirement to notify the person concerned of the right to counsel and the right to speak to his country's Consular or diplomatic representative. Form IMM 689 should continue to be used for this purpose.

* 4) Notification to Family Members (IMM 1248, see App. "H")

Should the person concerned have family member(s) who are not Canadian citizens or permanent residents 18 years of age or over who may be dependent upon him, the SIO shall notify each family member of the following:

a) Time, date, and place of inquiry;

b) Reason for the inquiry and authority for his possible inclusion in a deportation order or departure notice;

c) His right to obtain, instruct, and be represented by counsel;

d) His right to participate fully at the inquiry by examining evidence, cross-examining witnesses and presenting evidence and witnesses.

* 11.33 LOCALE AND SECURITY OF THE INQUIRY

1) Locale

a) It is the responsibility of the SIO scheduling the inquiry to ensure that a suitable locale is obtained to hold the inquiry. The locale should be in keeping with the spirit and dignity of the Tribunal so far as is feasible. No files or manuals should be apparent in the inquiry room. The room should be clean, and large enough to accommodate all concerned in a comfortable fashion.

b) While A29(3) provides for an inquiry to be held in camera, this subsection also provides for the inquiry to be held in public, subject to certain conditions, upon application by a member of the public. Where the adjudicator decides that an inquiry will be open to the public, the number of persons who will actually be able to attend will depend upon the availability of suitable accommodation. In cases where considerable public interest is foreseen, it might be appropriate to reserve an inquiry room of reasonable size.

2) Security

a) Both the case presenting officer (CPO) and the adjudicator have responsibilities to ensure a safe and secure inquiry setting. Pursuant to A29(2) and (3), the adjudicator has the right to exclude persons who might impede the inquiry. Further, R35(1) affords the adjudicator the authority to adjourn inquiries in order to ensure a full and proper hearing.

b) When an inquiry is to be held at a CIC, the situation of the facilities has already been established. The size and standard layout of a hearing room has been approved by Treasury Board (T.B. minute 799084) and a diagram is attached at App. "C". Regional administrative services have separate instructions to take into account this decision and other factors in future planning of accommodation and facilities for the Adjudication function. In addition to the larger size, these include direct access of adjudicators to the hearing room, separate entrances/exits, high quality and secure furnishings, concealed wiring for electronic recording equipment and microphones attached to desks or tables.

c) Inquiries held outside CEIC offices usually take place in correctional centres, jails, and similar institutions. The subjects of inquiries held in such institutions are either incarcerated there by another authority or are considered to be potentially violent. While options are limited in the case of those serving sentence or held by other authorities, the factors to be considered in scheduling any hearing in these institutions are the same as those outlined in 11.34 following.

d) While the standard approved by Treasury Board for the size and layout of hearing rooms cannot be achieved in most institutions, there are, in most locations, rooms that would be adequate from both a security and an operational outlook. These might include conference rooms or hearing rooms used by the National Parole Board or for internal disciplinary hearings. For the purposes of inquiries, certain conditions are desirable, and to the degree possible, should be met. First, there should be easy access to and exit from the room, for the adjudicator, CPO, court reporter, interpreter, counsel and witnesses. The size of the room should be large enough to permit all participants to perform their duties in a secure atmosphere. In order to meet these expectations, it is necessary that senior Adjudication and Enforcement managers liaise with correctional authorities in each province in order to obtain an appropriate and secure setting for inquiries.

e) At the actual hearing, the CPO who has arranged the security should be prepared to respond to questions regarding the arrangements from the person concerned, counsel, or the adjudicator. The CPO will be able to explain how the risk was assessed and what alternatives were explored. An example of this might be the decision to have security guards or escort officers in the inquiry room or at the door.

f) As a decision-maker, the adjudicator assesses the security needs of the inquiry, bearing in mind the responsibility of the CPO, as representative of the Commission, to cause an inquiry to be held and provide adequate security. As part of his responsibility to ensure a full and proper inquiry, the adjudicator can and should adjourn, when of the opinion that a risk to the participants exists. The CPO will be advised of any actions that should be undertaken, including a change of venue, in order to ensure that the inquiry can resume in a sufficiently secure environment.

3) Carrying of Hand Baggage into the Inquiry Room

a) Neither the Immigration Act nor the Criminal Code provides immigration officers with the authority to conduct a personal search. There will be instances where an officer may find it necessary to search someone seeking admission to an inquiry room. Caution must be exercised at all times when an officer has to make the decision as to whether he will conduct a search. Section 8 of the Canadian Charter of Rights and Freedoms provides that "Everyone has the right to be secure against unreasonable search or seizure." There is an absolute need for the officer to show in each individual case where he conducts a search that reasonable grounds exist to take action.

b) Although it is legally permissible to ask that persons not bring hand baggage into the inquiry room, and although officers may legally disallow observers into the inquiry room should they not agree to leave their baggage outside, the legal advisor does not recommend a general barring of persons who refuse to check their baggage or submit to a search.

Officers must have reasonable grounds for denying access to an observer, especially in light of recent amendments to A29(3) which allows observers whose applications for admission to the inquiry have been accepted by the adjudicator. Even attendance in Canadian courtrooms does not necessitate similarly stringent restrictions, notwithstanding recent courtroom incidents and in spite of the more dangerous types of cases handled.

c) It is expected that the Courts would not tolerate a policy which would deny access to the person concerned, witnesses or persons it is proposed be included in removal orders or departure notices.

d) On a related point, it is the opinion of the legal advisor that it is legally questionable to institute a policy of searching as a matter of course and possibly taking custody of the hand baggage of a person seeking admission to an inquiry. An officer should be satisfied that reasonable grounds exist to search the baggage to ensure the security of the proceedings. Administratively, were baggage to be taken from an individual, the Commission would be obliged to take custody and therefore be obliged to be liable in the case of allegedly lost or stolen articles. Where it is evident that considerable physical ability is going to be necessary because of the attitude of the individual, then assistance is to be sought from the police.

4) Report of Inquiry

A verbatim report of the inquiry must be recorded. It is generally the policy of the Commission to encourage the use of electronic equipment to record proceedings. However, a stenographer may be used if for any reason a recorder is not available or suitable for the occasion.

5) Interpreter

An inquiry cannot be commenced until the adjudicator is satisfied that the person concerned is able to understand and communicate in the language in which the inquiry is being held. To avoid unnecessary adjournments, the SIO should, prior to the inquiry, arrange for the presence of a suitable interpreter where necessary.

\+ 11.34 LOCATION OF INQUIRY AND ADVANCE INFORMATION ABOUT POTENTIALLY VIOLENT PERSONS

1) Advance information should be provided to CPOs concerning persons where there is an indication of violent behaviour.

2) Investigators and other officers who complete reports on subjects must clearly document on case files any difficulties experienced with the subject, and especially any known history of violence or erratic behaviour. The CPO must be briefed in order to best arrange for a secure setting in which the inquiry shall take place. (See also Chapter IC 4).

3) a) Persons with potential for violence or unruly behaviour should not be brought to the CIC or District Office if alternative arrangements can be made at outside detention centres or institutions. This refers to the facility in which the person is detained at the time of inquiry or detention review. Two principal advantages may be realized from holding an inquiry of a potentially violent person at a detention centre or an institution. First, it should prevent the opportunity for the person concerned to escape. Second, it should provide for greater safety of immigration staff.

b) When determining where to hold an inquiry concerning a violent person, the CPO must consider various factors. Staff safety is of paramount importance. Communication, cooperation and consultation with Adjudication and federal and provincial correctional authorities is essential to ensure safety of the inquiry process.

4) a) Certain categories of persons should not be brought to CICs or District Offices for the purpose of holding inquiries in their cases:

i) persons charged with or convicted of violent crimes;

ii) individuals or groups with reputations for violence, such as major motorcycle gangs;

iii) persons who were particularly difficult to take into custody by police or Immigration;

iv) persons who have been disciplinary problems in detention facilities;

v) apparently unstable persons who have demonstrated erratic or threatening behaviour.

b) This list should not be considered to be all inclusive. Good judgement is necessary and, in marginal cases, the decision should favour greater safety.

5) Other factors which must be considered in conjunction with the person's history in determining location of the inquiry include:

a) Does the detention centre/institution have suitable accommodations for the conduct of a full and proper inquiry?

b) Is the detention centre/institution agreeable to the holding of a hearing therein?

c) Will essential non-official participants (usually witnesses, possibly counsel) be allowed into the facility or the part thereof where the hearing is to be held?

d) What are the transportation arrangements for participants to the facility versus those for moving the subject to the CIC?

e) How secure are inquiry facilities at the CIC relative to the case in question?

f) What is the level of security provided by the institution to participants at the inquiry vis-a-vis the actions or potential actions of other inmates of the institution?

6) The authority of the adjudicator, pursuant to R35(1) to adjourn inquiries in order to ensure full and proper hearings, and pursuant to R35(2) to determine the place at which an inquiry will be resumed, must be kept in mind in determining the location of an inquiry. There should be liaison with the Adjudication Directorate concerning the suitability of facilities for inquiries conducted outside CEIC offices. Wherever possible, improvements and changes in these facilities should be negotiated with the local authorities responsible for them.

7) The response to safety and security concerns at inquiries may include the presence of a guard in the hearing room. It is the view of the legal advisor that the adjudicator should decide whether to allow the presence of escort officers or guards at inquiries. Once the adjudicator has been briefed by the CPO on the reasons for the guard's presence, or for other security precautions, including the need to hold the inquiry other than at a CEIC office, the adjudicator may permit the presence of a guard that is determined necessary for the holding of the inquiry or approve other security measures.

8) It is the position of the Adjudication Directorate that the adjudicator should not be forewarned of the presence of a violent or potentially violent person at the inquiry. Any information concerning the person concerned which would be required to explain the security arrangements made by the CPO would be presented at the inquiry. Since this information may be adverse to the person concerned, the person or counsel may, at that time, wish to respond.

11.35 WITNESSES CALLED ON BEHALF OF THE COMMISSION

In preparation of the Commission's case, the CPO has discretion as to how he will invite witnesses. He may ask them either by telephone or letter to appear voluntarily. However, should he have any reason to doubt that the witness will appear as requested, he may ask the adjudicator hearing the case to issue a
* written summons on IMM 1232 (see App. "I") requiring such person to appear at the stated time and place. The summons should indicate the specific matter relative to the inquiry upon which the witness will be required to testify, and the possible consequences as cited in A95, if the witness should fail to attend without just reason.

11.36 INQUIRY PROCEEDINGS

These comments should not be construed as guidelines to Adjudicators. However, the general format of the inquiry will probably be as follows:

1) Upon opening the inquiry, the adjudicator will declare the legal basis for the inquiry, the place, date, and jurisdiction. This declaration is necessary to clearly indicate to those present that the proceedings will be under the authority of the Immigration Act and that he (the adjudicator) will be the one conducting the proceedings.

2) The adjudicator probably will then ask those persons immediately connected with the inquiry, i.e., the person or persons concerned, his counsel, and immigration officials, to identify themselves. The CPO would then declare his identity and official status as the Minister's representative at the Inquiry.

3) a) After family members and counsel, where applicable, have identified themselves, the CPO might state that he may request that members of the subject's family (he will provide the names) be included in the deportation order; that he has therefore advised each of them by registered letter of the time and place of inquiry, his right to fully participate at the inquiry, and his right to counsel:

   b) In order to comply with R27(1), the CPO could then present a copy of the letter and request that it be filed as an exhibit.

4) It is anticipated that at this point, the adjudicator will ensure that the person concerned has been made aware of his rights, and can understand and communicate in the language in which the inquiry is being held. In cases where arrangements have been made for an interpreter, the adjudicator will ensure that there is effective communication between the interpreter and the person concerned. He will then administer an oath to the translator. Having satisfied himself on these points, he will take note of other persons present and proceed with matters related to A29(2) and A29(3).

5) Where there is an application for a public hearing, the member of the public making such application will then present himself to the adjudicator, and the adjudicator will invite submissions concerning the application. This will afford the CPO the opportunity to make any submissions he may have.

11.37 READING AND FILING OF REPORT OR DIRECTION AND COPY OF REPORT OR REPORT OF ARRESTING OFFICER

1) Report and Direction Pursuant to A27

The case presenting officer could begin as follows:

> "The Director General, Enforcement Branch, acting for the Deputy Minister, has received a report under subsection 27(1) of the Immigration Act, 1976 dated at (place) on (date) from (name), an immigration officer, concerning one (name) which reads as follows... ."

The case presenting officer continues:

> "In view of this report and pursuant to subsection 27(3) of the Act the Director General, Enforcement Branch, acting on behalf of the Deputy Minister has issued a direction that an inquiry be held concerning one (name). This direction is dated at (place) on (date) and reads as follows... ."

The CPO then requests that these documents be filed as exhibits. Since they will become part of the record as exhibits, it is not necessary to record the report verbatim in the minutes but a statement should be made by the adjudicator to show that it has been read in full to the person concerned.

2) Report Pursuant to A20(1)

The case presenting officer could begin as follows:

> "A senior immigration officer has received a report under subsection 20(1) of the Immigration Act from immigration officer (name) who after having examined one (name) is of the opinion that it may be contrary to the Act or the Regulations to grant admission or to otherwise let (name) come into Canada. The report is dated at (place) on (date) and reads as follows... ."

The CPO then requests that the report be filed as an exhibit.

3) Arrest Without Warrant (A104(2)(a))

The case presenting officer could begin as follows:

> "A senior immigration officer has received a report pursuant to subsection 104(4) of the Immigration Act, 1976 informing him that (name) has been arrested without warrant and detained for inquiry pursuant to subsection 104(2) of the Act. The report is dated at (place) on (date) and reads as follows... ."

The CPO then requests that the report (IMM 1285) be filed as an exhibit.

11.38 EXPLANATION TO PERSONS CONCERNED

At this point of the inquiry, the adjudicator may wish to explain the section under which the person has been reported, the purpose of the inquiry and its possible result. He may also explain to any family member present that, should it be determined that he is dependent upon the head of family, he may be required to leave Canada.

11.39 WITHDRAWAL OF NOTICES AND DIRECTIONS FOR INQUIRY

The Act and Regulations have no specific provisions for withdrawal of Notices or Directions for inquiry. However, there are circumstances where, in the interest of fairness, it is pointless to subject the person to the inquiry process where it is clearly evident such action is unwarranted. Outlined below are various situations with suggested courses of action appropriate for most cases.

1) Port of Entry - Before Inquiry

Where the CPO, upon preparing the case for inquiry, feels the report is unfounded, or where additional facts indicate the person is clearly admissible, he discusses the case with the SIO who signed the Notice.

a) If the SIO is willing to withdraw the Notice of Inquiry, that officer so advises the adjudicator in writing. Note that under A23(2), only the SIO receiving the report may grant entry to the visitor. Therefore, to comply with the statute, the SIO, when withdrawing the Notice of Inquiry, will also complete the appropriate entry document.

b) Where the SIO refuses to withdraw the Notice, or is unavailable, the CPO must proceed with the inquiry.

2) Port of Entry - During Inquiry

a) Where evidence is adduced during inquiry, indicating the case should not have gone to inquiry, and that it is pointless to continue, especially if the inquiry is in the initial stages, the CPO may request an adjournment to reconsider whether or not to pursue the allegations.

b) The CPO then consults with the SIO who signed the Notice. (It is, of course, unnecessary to request an adjournment where the CPO and the SIO are the same officer.)

c) If the SIO is willing to withdraw the Notice, written evidence of the SIO's decision should be introduced at the inquiry's resumption.

d) The adjudicator then determines whether he will allow withdrawal of the Notice, or whether to make a decision as required under A31 and A32, based upon the evidence then before him.

e) In cases where the adjudicator terminates the inquiry without decision, the SIO will grant admission under A23(2).

3) Inland - Before Inquiry

Where the CPO or SIO, upon reviewing the case, considers inquiry action is not warranted, or where additional information comes to light, which may have influenced the decision to proceed to inquiry, he may discuss the matter with the CIC Manager who signed the Direction, or with the official acting on the Manager's behalf.

a) Managers who agree with the CPO's views will withdraw, in writing, the Direction for inquiry.

b) If the Manager disagrees, the CPO must proceed with the inquiry.

c) When the Manager is unavailable for consultation, the CPO will refer the case to the Regional Director (or any other official authorized under I-27 to direct inquiries (but not another CIC Manager)) requesting the Direction be withdrawn.

d) The adjudicator should receive the Notification of Withdrawal in writing where he has received Notice to hold an inquiry.

4) Inland - During Inquiry

a) Where evidence is adduced at the inquiry indicating the report is totally unfounded or incorrect, there is no purpose in continuing the inquiry. The CPO will therefore request adjournment to reconsider whether or not the Commission will proceed with its case. (See procedures at 11.39 2)b), c), d) and e) above.)

b) When the inquiry is resumed, the written withdrawal of Direction is introduced.

c) The adjudicator then determines whether he will allow the Direction's withdrawal or will make a decision as required under A31 and A32, based on the evidence presented.

11.40 EVIDENCE OF THE PERSON CONCERNED

1) After the person concerned has been sworn, his identity and citizenship must be clearly established. Documentary evidence, if available, for identity and/or citizenship should be entered into the record as an exhibit or described in the minutes. The CPO may develop the evidence by the question and answer method. The following questions would be relevant for that purpose.

Q. What is your correct name in full?
Q. Have you ever used any other name(s)?
Q. Where were you born?
Q. Of what country are you a citizen?
Q. Do you have a passport?
Q. Do you have any other documents of identity?
Q. What is your present permanent address?
If in Canada;
Q. What was your permanent address before coming to Canada?

2) Family Particulars

a) The CPO should then establish the immediate family particulars of the person concerned. His questioning should be limited in order to avoid the person concerned giving evidence regarding his immediate family which should be obtained from them (if they are present) in respect of their dependency and possible inclusion in the deportation order. The following questions would generally be sufficient:

Q. Are you single, married, widowed, divorced or legally separated?
Q. What is your wife's maiden name?
Q. When and where was she born?
Q. Of what country is she a citizen?
Q. What is the date and place of your marriage?
Q. Do you have any children?
Q. What is the present permanent address of your family?
Q. Where is your family now?
Q. Do you have any brothers or sisters in Canada?

Other questions could be asked about his children's dates and places of birth as well as their citizenship.

b) Where an application for permanent residence has been completed by the person concerned, the CPO could, in lieu of asking the questions in 1) and 2) above, simply ask the person whether the answers provided to the questions on the form are correct and subsequently ask the adjudicator that the form be filed as an exhibit. The CPO should ensure that the application and any declarations contained therein are signed by the person concerned.

3) Immigration Status of the Person and Nature of Application

The status that the person concerned claims to have or seeks should be clearly established. In the course of questioning, the CPO should explore the residence and visa issues. It should be determined and clearly stated in the minutes whether the person concerned is:

a) an applicant for permanent residence with or without a valid immigrant visa;

b) a returning resident seeking to come into Canada as such, with or without a returning resident permit;

c) an applicant for temporary admission as a visitor with or without a visa;

d) a visitor in Canada;

e) a permanent resident in Canada; or

f) a holder of a Minister's Permit.

4) Evidence Pertinent to the Matter Under Inquiry

At this stage of the inquiry, the CPO would be required to adduce evidence to substantiate the allegations contained in either the report, direction, or basis for the arrest. The following sections provide guidelines on the evidence required to establish non-compliance with one or more provisions of the Act and Regulations.

11.41 EVIDENCE - INADMISSIBLE CLASSES

The following paragraphs should be read in conjunction with the guidelines in 11.10, 11.11, 11.15, 11.18 and 11.19. Officers should bear in mind that it is necessary to prove every element of the precise wording in each paragraph of A19.

1) A19(1)(a)

The evidence required in such a case would be a report signed by two medical officers or two reports from different medical officers concluding that, in their opinion, the person concerned is likely to be one or more of the following:

a) a danger to public health,

b) a danger to public safety, or

c) a person whose admission might be expected to cause excessive demands on health or social services.

The opinion of the medical officer must be concurred with by at least one other medical officer. If only one medical report is available, then the CPO should arrange for a second opinion either in writing or in the form of verbal evidence given at the inquiry. The factors which must be considered by a medical officer for the purpose of determining the above are stated in R22.

2) A19(1)(b)

A definition of the phrase "reasonable grounds" is "a set of facts and circumstances which would satisfy an ordinarily cautious and prudent person and which are more than mere suspicion".

This paragraph is not meant to apply to persons who are medically inadmissible. In order to prove inadmissibility, CPOs must establish, through resourceful questioning:

a) that the person concerned is unable or unwilling to support himself and his dependants; and

b) that the person concerned has not satisfied an immigration officer that adequate arrangements have been made for his care and support.

3) A19(1)(c)

In order to prove inadmissibility under this paragraph, the CPO must produce the following evidence:

a) The person's admission of the conviction or, in the absence of his own admission, documentary evidence such as an original, a duplicate original, or a certified true copy of the conviction could be introduced. However, if documentary evidence is introduced, it must be established that the document refers to him. (A duplicate original is a copy of the original and is dated and signed in ink, while a certified true copy is a document certified under the hand of the proper officer or person in whose custody such official or public document has been placed); and

b) Evidence that the offence would be punishable under an Act of Parliament and for which a maximum term of imprisonment of ten years or more could be imposed. To establish this, it is necessary to compare the elements of the foreign offence with the Canadian statute. (For further guidance regarding the equating of foreign offences with Canadian law, officers should refer to IS 9.) The foreign offence and the relevant section of the Canadian statute, including the maximum possible punishment, should be stated and recorded; and

c) Evidence that the Governor in Council has not indicated he is satisfied that the person is rehabilitated. This would best be established by questioning the person concerned. If the person does not admit to the above, a certificate in the form of a telex from NHQ Records could be obtained.

4) A19(1)(d)(i) and (ii)

a) Evidence must be introduced proving that there are reasonable grounds to believe that the person seeking admission will commit an offence punishable by way of indictment, or engage in activity that is part of a pattern of organized criminal activity the purpose of which is to commit an indictable offence.

b) The evidence necessary to establish that a person is inadmissible under this paragraph could take the form of an intelligence report or a * section 40 certificate. It is insufficient for an intelligence report to merely state illegal activities in the person's past without some indication in the report regarding the individual's probable reason for coming to Canada in order for deportation to be justified under this section.

5) A19(1)(e)

a) This paragraph is intended to cover all subversion past, present and future, in or outside of Canada, against democratic government institutions or processes (as they are understood in Canada). The evidence necessary to establish that a person is inadmissible under this paragraph would, in most cases, take the form of intelligence reports or
* a section 40 certificate. In some cases, documentary evidence may be insufficient or not available. The CPO in such cases would have to conduct a very thorough "searching examination" of the person's past activities, associations, etc. Simple membership in, or association with, organizations promoting subversion is not grounds in itself for deportation but may constitute part of the evidence for believing that a person is likely to engage in acts of subversion; and

b) It should be established that the person has not satisfied the Minister that his admission would not be detrimental to the national interest. This could best be established by questioning the person concerned. If necessary, a certificate or telex could be obtained from NHQ.

6) A19(1)(f)

This paragraph covers activities or probable activities in Canada only. Here, any acts of possible subversion, whether aimed at democratic or non-
* democratic regimes, will serve as a basis for deportation. Evidence in these cases will take the form of a police or intelligence report or a A40 certificate regarding the subject. The content of a police or intelligence report must be sufficient to establish reasonable grounds to believe that the person concerned will engage, in Canada, in the subversion by force of any government.

7) A19(1)(g)

This paragraph covers terrorists, hijackers and all others who indulge in violence or who are members of groups dedicated to the use of violence or terrorism to achieve their goals. A report indicating that an individual is a member of an organization likely to engage in acts of violence in Canada,
* or a A40 certificate, is sufficient to establish inadmissibility under this paragraph.

8) A19(1)(h)

a) The written report to the SIO under A20(1) must state that the person is not a genuine immigrant or visitor. The person may be inadmissible under either one of the two grounds but never both.

b) This paragraph is an important means of controlling illegal immigration through attempts to enter Canada, as visitors, by persons who, in reality, have no intention of departing. It also excludes persons who have no intention of residing permanently in Canada but seek permanent resident status solely for commercial or financial ends.

c) Establishing to an adjudicator that a person seeking admission is not a genuine visitor will, in some cases, be a difficult task. The case presenting officer may wish to give consideration to the following:

i) Will the person concerned be able to maintain himself in Canada and effect his departure?

ii) Has the person severed his ties with his country of nationality or last permanent residence, e.g., terminated or transferred pension, sold property, terminated employment, etc.?

iii) Do the person's reasons for coming to Canada sound plausible?

iv) Does the person have any friends or relatives in Canada?

v) Has he previously submitted an application for permanent residence which was refused?

vi) Are his travel plans vague, contradictory or without purpose?

9) A19(1)(i)

Evidence required to establish inadmissibility under this paragraph includes:

a) Evidence that the person concerned was ordered removed under this Act or any previous Immigration Act. This could be adduced through questioning or the introduction of a certified true copy of the deportation or exclusion order; and

b) It must be established that an appeal from the order has not been allowed either by the person's admission or presentation of the IAB decision; and

c) Evidence that the person was removed from, or otherwise left, Canada. This could be established by the person's admission or the introduction of a certified true copy of the Receipt for Delivery IMM 56 if the person was deported; and

d) Admission by the person or a document or telex from NHQ Records advising there is no record that the Minister gave his consent for him to return; and

e) In the case of a person excluded under the Act, less than 12 months have elapsed between the day following the day on which the person left Canada and the date that the person again seeks entry. It should be noted, however, that at the time of the adjudicator's decision, the individual must be a member of an inadmissible class, and therefore action under this paragraph must have commenced and been terminated with an adjudicator's decision within the twelve month period (1980 Federal Court of Appeal decision, Harnek Singh Grewal v. Minister of Employment and Immigration).

+ 10) A19(1)(j)

This paragraph is intended to cover persons who have committed war crimes or crimes against humanity. Evidence required to establish inadmissibility under this paragraph includes:

a) A Section 40 Certificate regarding the subject.

b) Documentary evidence establishing that the subject has been convicted of an offence pursuant to subsection 6 (1.96) of the Criminal Code.

c) Admission by the subject of the commission of an offence pursuant to subsection 6 (1.96) of the Criminal Code.

d) Documentary evidence that the subject has been convicted in a foreign country of an offence which is similar to subsection 6 (1.96) of the Criminal Code.

11) A19(2)(a)

The following is necessary to prove inadmissibility under this paragraph:

a) Admission by the person of the conviction or a certificate of conviction which should be substantiated by questioning the person concerned at the inquiry; and

b) Evidence that the offence would be punishable by way of an indictment under an Act of Parliament other than the Immigration Act and for which a maximum term of imprisonment of less than ten years could be imposed. To establish this, it is necessary to compare the elements of the foreign offence with the Canadian statute (for further guidance regarding the equating of foreign offences with Canadian law, officers should refer to IS 9). The foreign offence and the relevant sections of the Canadian statute, including the maximum possible punishment, should be stated and recorded; and

c) Admission by the person or a certificate or telex from NHQ indicating that there is no record of the Minister being satisfied that the person is rehabilitated.

12) A19(2)(b)

This paragraph covers petty offenders. An offender more than 21 years of age is inadmissible if he has served sentences at least twice within a five year period prior to seeking admission; at least one conviction having occurred after the age of 21. An offender less than 21 years of age is inadmissible if he has served sentences at least twice within two years prior to seeking admission. Evidence required to prove inadmissibility under this paragraph is the following:

a) Admission by the person of two separate convictions or two or more certificates of separate convictions which should be substantiated by questioning the person concerned at the inquiry. It must be established that the two or more convictions did not arise from the same event; and

b) It must be established at the inquiry that the offences, if committed in Canada, would be punishable on summary conviction under an Act of Parliament other than the Immigration Act. To establish this, it is necessary to compare the elements of the foreign offences with the Canadian statute(s) (for further guidance regarding the equating of foreign offences with Canadian statutes, officers should refer to IS 9). The foreign offences and the relevant sections of the Canadian statute(s), including reference to being punishable on summary conviction, should be stated and recorded; and

c) In the case of persons who were convicted of at least one of the two offences when they were 21 or more years of age, any part of two sentences imposed was served or was supposed to have been served during the five-year period immediately preceding the day on which they seek admission to Canada, or in the case of persons who were convicted of at least two such offences when they were less than 21 years of age, any part of the two sentences imposed was served or was supposed to have been served during the two-year period immediately preceding the day on which they seek admission to Canada.

13) A19(2)(c)

In order for individuals to be inadmissible under this paragraph, it must be established at the inquiry that the persons are family members as defined in the Act or R2(2) and that, in the case of visitors, a state of dependency exists between the inadmissible person and the accompanying relative(s). This evidence will, in most cases, take the form of testimony given by the family members and the head of family concerning the relationship and interdependencies. In some cases, relationships may be corroborated by family particulars in passports.

14) A19(2)(d)

This paragraph is intended to cover primarily non-compliance with requirements such as the absence of a necessary visa or medical examination. It is meant to be coupled with other section(s) of the Act or Regulations. It should not be used when there is a more specific ground of inadmissibility that may be used. For example, a person who has been deported and is seeking admission without the Minister's consent should be inadmissible under A19(1)(i), not A19(2)(d) coupled with A57.

11.42 EVIDENCE IN SUPPORT OF A27 CASES

The following paragraphs should be read in conjunction with 11.10, 11.11, 11.15, 11.18, and 11.19. Officers must be fully cognizant that the burden of proof in A27 cases lies with the Commission.

1) In all cases under A27(1), it must be established during the course of the inquiry that the person concerned is a permanent resident of Canada. In most cases, this will take the form of the original or a certified true copy of the landing record, IMM 1000. The remainder of the inquiry would then be devoted to establishing the particular allegation(s) as follows:

   a) A27(1)(a)

   Guidelines as outlined in 11.41 3), 4), 5), 7) or 10) are applicable.

b) A27(1)(b)

It must be determined that permission to come into Canada to establish permanent residence was subject to terms and conditions. Certified true copies of departmental documents may be introduced to corroborate this fact. The CPO must then establish that the person concerned knowingly contravened any such term or condition. To prove this fact, it is necessary to demonstrate to the adjudicator that the person was aware of the terms and conditions of his landing. This can be done through the introduction of a document with that person's signature acknowledging that he understood and agreed to the terms and conditions of his landing. The CPO should then question the person to verify the authenticity of the signature.

c) A27(1)(c)

Guidelines as outlined in 11.41 6) are applicable.

d) A27(1)(d)

Admission by the person or a certified true copy of the conviction would establish the allegations. If documentary evidence is used, it should be established that the person who is subject of the inquiry is, in fact, the person mentioned in the document. If the person was sentenced to less than six months, the CPO should read the relevant statute with possible maximum imprisonment to establish that five years or more could have been imposed.

e) A27(1)(e)

The evidence to be adduced by the CPO will normally be in the form of documents which are alleged to be false or improperly issued or a statutory declaration or document showing that the admission was obtained by any of the reasons mentioned. It must be established that the document or fact in question would or may have affected the decision to admit the person.

f) A27(1)(f)

Evidence should be adduced to the effect that the person concerned is unwilling to find or accept employment for which he is suitable or otherwise qualified or, although working, fails to support his dependants. This provision cannot be applied to permanent residents who become public charges or fail to support dependants through misfortune rather than intention. Oral evidence may be presented by social welfare officers, or unemployment insurance or employment counsellors. Where such officials could not appear, statutory declarations could be introduced.

2) A27(2) refers to persons in Canada who are neither Canadian citizens nor permanent residents. Therefore, in all cases under this subsection which proceed to inquiry, this must be clearly established. The remainder of the inquiry would then be devoted to establishing the particular allegation(s) as follows:

* a) A27(2)(a)

For the purposes of this paragraph, it will be sufficient to establish that the person, except for the fact that he is not seeking entry, is a person described in A19 (with the exception of A19(1)(h) and A19(2)(c)). Relevant guidelines in 11.41 are applicable. See also IS 9.10(3).

It is conceivable that a visitor, convicted in Canada of a serious offence, could be reported under 27(2)(a), 19(1)(c) or 27(2)(d). Under 27(2)(a) and 19(1)(c), an adjudicator would have no option but to issue a deportation order at inquiry. Under 27(2)(d), an adjudicator would have the discretion to issue a departure notice. It is felt that the legislation envisioned the use of such discretion in these cases. Managers considering directions in such circumstances should direct inquiry pursuant to 27(2)(d) rather than 27(2)(a).

b) A27(2)(b)

Evidence must be introduced to establish that the person has worked in Canada and that he did not have the proper authorization to do so. This section is also intended to cover the case where a person works at a job other than the one specified in the terms and conditions of his entry or for a longer period than was authorized. The relevant section of the Act or Regulations should be stated in order that the non-compliance is clear to all concerned. Where the person refuses to admit to having worked illegally, a letter from the employer could be introduced specifying details of the employment. In cases where such documentation is not available, the necessary evidence may be adduced by questioning witnesses who have knowledge of the fact.

c) A27(2)(c)

Guidelines as outlined in 11.41 6) are applicable.

d) A27(2)(d)

Admission of the conviction by the person concerned or a certified true copy of the conviction order would be required. In cases where documentary evidence is introduced, the person must be questioned to verify that the conviction refers to him. It must be established that the offence was under the Criminal Code, or, if not, was one that could be punishable by way of indictment under any Act of Parliament other than the Immigration Act. In the latter case, the relevant section of the statute establishing that the offence may be punishable by way of indictment should be read and recorded.

e) A27(2)(e) (See App. "B" re. Federal Court of Appeal Decision in Alan Kwok Lun Chi)

For the purposes of this paragraph, there are four ways in which a person ceases to be a visitor in Canada. They are as follows:

i) He fails to comply with any term or condition subject to which he is authorized to remain in Canada. The original or a certified true copy of the departmental form outlining the terms or conditions of

his stay in Canada should be introduced at the inquiry. The CPO would then proceed to establish, either through documentary or oral evidence, that the person did not comply with such terms or conditions.

ii) Without authorization he takes any academic, professional or vocational training course or engages in employment in Canada. Admission of the fact by the person concerned, or evidence in the form of a letter from an educational institution indicating that the person is (or has been) attending classes, or a letter from an employer indicating that the person is (or has) engaged in employment, preferably specifying employment dates, may be introduced. It must then be established that the person does (or did) not have the proper authorization. The person could be questioned and, should he claim to have received the necessary authorization, he should be asked to produce it or evidence of having received it. The CPO could also introduce a document from the Director, Recorded Information Management, NHQ, indicating that a search of departmental records reveals there is no record of the person having received the authorization and specifying the dates within which the search is confined.

iii) He remains in Canada for a period of time greater than that for which he is authorized to remain in Canada. Where the person refuses to admit he has overstayed, the original or certified true copy of the entry record should be introduced. A document from the Director, Recorded Information Management, NHQ, could then be presented indicating that there is no record of a subsequent authorization. In cases where there is no record of entry and three months have expired since that person was granted entry, his passport may be described in the minutes. Alternatively, certified true copies of the relevant pages of the passport could be introduced and filed as an exhibit.

iv) A departure notice has been issued to him and the date on or before which he was thereby required to leave Canada has passed. The original or a certified true copy of the departure notice may be introduced as documentary evidence. The person must be questioned to ensure that he has not departed from Canada and subsequently returned legally.

Under A26(1) there is a fifth way in which a person ceases to be a visitor in Canada. It occurs when a deportation order is made against him that is not quashed or the execution of which is not stayed. Of course, reports are not to be done under A27(2)(e) when a person has been ordered deported; rather, the order must be executed as soon as reasonably practicable.

f) A27(2)(f)

There are three parts to this paragraph as follows:

i) "Came into Canada at any place other than a port of entry and failed to report forthwith to an immigration officer". In most cases of this nature, the necessary evidence would have to be adduced by questioning the person concerned. In some instances, there may be witnesses who have personal knowledge of the fact, or in whom the person concerned has confided, whose evidence may add support to the Commission's case. In cases where a person claims to have entered at a certain port at a certain time, the officer on duty at that time should be called as a witness or, if the latter is impractical, asked to submit a statutory declaration. CPOs may also wish to adduce evidence concerning the means of transportation to verify when and where this person was brought to Canada. It must be established conclusively during the inquiry that the person came into Canada at a place other than a port of entry and did not report forthwith to an immigration officer; or

ii) "Eluded examination or inquiry under this Act". Through resourceful questioning, the CPO should obtain evidence that the person was compelled under the Act to report for examination or inquiry, and then establish whether or not he has done so. If it is intended to use this paragraph in the case of ship deserters, the case presenting officer should determine that the person eluded examination. Therefore, the person concerned must be questioned regarding the manner in which he came into Canada to determine whether or not he deliberately avoided following the normal procedure required when a crew member comes ashore; or

iii) "Escaped from lawful custody or detention under this Act". Evidence should be introduced to establish that the person was lawfully detained under the Immigration Act pursuant to A23(3), A90(2), A103 or A103.1. Criteria for proper and legal arrests will be found in IE 10. If the person refuses to admit that he was arrested under the Act, the CPO could ask the arresting officer to appear as a witness for the Commission. Once the fact of lawful arrest has been established, the CPO must elicit evidence that the individual did escape from detention.

g) A27(2)(g)

The evidence to be adduced by the CPO in such cases will normally be in the form of documents which are alleged to be false or improperly issued, or testimony of the person concerned establishing that the admission was obtained by any of the reasons mentioned. It is important to establish that the document or fact in question was relevant to his admission or to his ability to remain in Canada undetected.

h) A27(2)(h)

Guidelines as outlined in 11.41 9) are applicable.

i) A27(2)(i)

There are two parts to this paragraph as follows:

i) "Has not left Canada on or before the date specified in a departure notice that was issued to him". The original or a certified true copy of the departure notice may be introduced as documentary evidence. The person should be questioned to ensure that he has not departed from Canada and subsequently returned; or

ii) "Having so left Canada, has been allowed to come into Canada pursuant to paragraph 14(1)(c)". As above, documentary evidence establishing that the person was required to depart may be introduced. It must then be established that he was refused admission to another country and was subsequently allowed to come into Canada pursuant to A14(1)(c). In most cases, this can be established by the testimony of the person concerned. In cases where the circumstances surrounding his return to Canada are unclear, the officer who allowed him to come into Canada may appear as a witness for the Commission or, alternatively but less preferable, a statutory declaration by that officer could be introduced as documentary evidence.

j) A27(2)(j)

Evidence to be adduced at the inquiry must cover three areas:

i) The case presenting officer must first establish that the person came into Canada as a member of a crew or to become a member of a crew. Admission of this fact by the person or documentation from the transportation company would establish this fact; and

ii) It must then be established that the vehicle left a port of entry and that the person concerned was not on board. A letter from the shipping agent or the transportation company could be introduced specifying the date that the vehicle left the port of entry and whether or not the person concerned was on board; and

iii) It must be established that the person did not have the approval of an immigration officer to remain in Canada. The case presenting officer may wish to establish that the person was not authorized by an immigration officer to remain temporarily and rejoin his vessel at some other port of call in Canada or, if so, whether he remained in Canada after expiration of the authorized period.

k) A27(2)(l)

Guidelines as outlined in 11.42 1)(f) are applicable.

11.43 ADDITIONAL GROUNDS FOR REMOVAL

1) In accordance with A21 a removal order can be made against a person on the basis that that person is a member of any inadmissible class. However, this does not mean that a CPO may introduce in his submission additional grounds for inadmissibility which may have become apparent during the course of the inquiry.

2) If, during the course of the inquiry, the CPO wishes that another ground for inadmissibility be considered, he must, at that time, advise the adjudicator who must then ensure that the person understands this additional ground and possible consequences. This is necessary in order to give that person the opportunity to reply to and defend himself against the new allegation. Failure to do so would be a breach of natural justice.

3) The above applies only in port of entry cases. In inland cases, new grounds may be submitted in a new A27 report to the Deputy Minister or his delegate, who may issue a new direction based on the new grounds.

11.44 SPARE

11.45 CROSS-EXAMINATION OF THE PERSON CONCERNED AND HIS WITNESSES

1) When the CPO has finished adducing evidence to prove his case and the person concerned has had the opportunity to cross-examine any witnesses and question any evidence produced, the person concerned will then have the opportunity to present his case. As he does so, it may become apparent to the CPO that documentary or oral evidence may be irrelevant or contradictory and he may wish to make notes of points he will wish to raise later when given the opportunity to cross-examine. The CPO should not attempt to interrupt the presentation of the person's case.

2) Where evidence introduced by the person or his counsel is contradictory to evidence adduced by the CPO, the latter must consider whether further examining is necessary to resolve the contradiction, bearing in mind the credibility of the person or his counsel and also that the adjudicator will only accept what he deems trustworthy and relevant. In cases where documentary evidence has been introduced which is questionable, e.g., an immigrant landing record, the CPO may wish to request an adjournment to have the document verified.

11.46 SUBMISSIONS REGARDING ALLEGATIONS

Both parties will be given an opportunity to present submissions regarding the allegations. The CPO should, in his submission, summarize the evidence which has been adduced at the inquiry which will support his position. In the case of a person seeking admission, the CPO may wish to include in his summary that the person has not discharged the burden of proof and has therefore failed to

establish his admissibility. Also, in view of the fact that an adjudicator has the discretionary grant of entry under A19(3), the CPO may wish to mention in his submission that such action was considered by (name), a SIO who decided that special consideration was not warranted in this case. The submission stage is not the time to introduce new facts and the CPO should ensure that his statements can be supported by the record.

11.47 DECISION BY ADJUDICATOR

At this point of the inquiry, subsequent to any adjournment he may have felt necessary, the adjudicator will render a decision regarding the allegations and whether or not the person will be required to leave Canada. If the person is found to be admissible or allowed to remain in Canada, the inquiry will be terminated. If, however, the adjudicator has found the person to be subject to a removal order or departure notice, the inquiry shall continue.

11.48 REQUEST FOR ADJOURNMENT OF INQUIRY TO SEEK RELIEF FROM THE MINISTER

1) In cases where a person who is before an adjudicator seeks an adjournment for the purpose of requesting a permit or obtaining a reply to a request for a permit, the CPO should argue against the granting of such an adjournment (unless the CPO believes that a permit is warranted or he has been advised that the Minister wishes to review the circumstances of the case). The CPO should state that the issuance of a permit is purely discretionary. He could mention that the issuance of a permit is delegated to the level of the person issuing the direction for inquiry and before the direction was issued, the extenuating circumstances which might warrant a permit were considered and found inadequate.

2) The argument sometimes used that the decision in Ramawad v. Minister of Manpower and Immigration (1978) 2 SCR 375 supports an adjournment for the purpose of allowing the Minister to consider a Permit was dealt with in Louhisdon v. Employment and Immigration Canada (1978) 2 F.C. 589. In the Louhisdon case, Pratte, J. stated that Section 8 of the Immigration Act (1952) "simply gives the Minister the power to grant a permit; it does not create any right in favour of those who might benefit from the exercise of this power. It is true that making the deportation order had the effect of depriving applicant of the option of obtaining a permit from the Minister. This does not, however, give applicant grounds for complaint. The deportation order has this effect under the Act regardless of when it is made. In my view, the decision of the Supreme Court of Canada in Ranawad cannot help the applicant". In Murray v. Minister of Employment and Immigration (1979) 1 F.C. 518, the Federal Court followed the Louhisdon decision and found its reasoning to be applicable under the Immigration Act, 1976. In the Samuel Lee Nelson case, the Federal Court of Canada, Trial Division, dismissed an application for a writ of prohibition to prevent the adjudicator from continuing the inquiry when a permit was outstanding. Finally, in the case of Danuta Widmont, the Federal Court of Appeal saw the Act as making no express provision for the adjournment of an inquiry to

allow the Minister to deal with a request for a permit under A37(1). The Court pointed out that it is the currently accepted view that "the Minister's consideration of whether to issue a permit under subsection 37(1) has nothing at all to do with ensuring a full and proper inquiry and that, therefore, an adjudicator is not required to adjourn for that purpose.

3) When a Minister's Permit is issued to the subject of an adjourned inquiry, a copy of the Permit is to be sent by the issuing CIC to the responsible Adjudication office so that the inquiry may be terminated.

11.49 ADJOURNMENT FOR CITIZENSHIP CLAIM

* 1) Completion of IMM 1328 - Initial Action (see App. "J")

Immediately following adjournment of an inquiry due to the subject claiming Canadian citizenship, the CPO will complete form IMM 1328 as follows:

a) Fill in all details of the person concerned, location of the inquiry, local file number, date and complete CIC address in the spaces provided;

b) i) In paragraph 1 of the IMM 1328, check the first box only if a Citizenship Court is readily available to the claimant, and include the complete address of the Court in the space provided;

ii) Check the second box only if a Citizenship Court is NOT readily available and attach an "Application for a Certificate of Citizenship" (supplies of this form are available by writing to the Registrar, Citizenship Registration Branch, Secretary of State Department, Ottawa, Ontario (K1A 0M5).

c) In paragraph 2 of the IMM 1328, check the appropriate box depending upon where the claimant has been referred;

d) When entering the date in paragraph 3 of the IMM 1328, allow seven days for the required proof (if a CIC does not have a supply of the form mentioned in b)ii) above, the claimant is to be given appropriate additional time to obtain a form from the Registrar);

e) The form is signed by the CPO, Copy 1 given to the claimant and the remaining three copies retained on the file at this point.

2) Action Following Specified Time Period

a) Documentary Proof Received

i) If, within the specified time period, documentary proof of the filing of the application is received, the CPO will check the appropriate box on the remaining copies of the IMM 1328, and send Copy 2 to the Registrar of Canadian Citizenship at the address shown on the form.

ii) The CPO will allow a reasonable period for a reply from Citizenship. If there is a lengthy delay, or if Citizenship advises that there will be some delay in reaching a decision, it is the responsibility of the CPO to ensure that appropriate follow-up action is taken until a decision is rendered by Citizenship.

b) Documentary Proof NOT Received

If, within the specified time period, the claimant has not provided documentary proof of the filing of the application as required, the CPO will check the appropriate box on the remaining copies of the IMM 1328, and send Copy 2 to the Registrar of Canadian Citizenship at the address shown on the form, and liaise with the adjudicator for the resumption of the inquiry.

3) Resumption of Inquiry

a) In cases where documentary proof is NOT provided within the specified time period, or on being informed by Citizenship that a certificate will NOT be issued, the CPO will present Citizenship's reply, where applicable, to the Manager of the CIC together with Copies 3 and 4 of the IMM 1328.

b) The Manager, if satisfied, will sign in the appropriate space on Copies 3 and 4 of the IMM 1328 and return Copy 3 to the CPO for presentation to the adjudicator at the resumed inquiry. Copy 4 is retained on the local file.

4) Certificate of Citizenship Issued

If a certificate of citizenship has been issued, the inquiry is to be terminated immediately.

5) Urgent Cases - Special Arrangement with Citizenship

Notwithstanding the above procedures, there may be occasions where urgency dictates that direct assistance from the local Citizenship Court is necessary to prove citizenship. In such cases, the Application for a Certificate of Citizenship will be referred to the local Court with a special request. The Court will provide the CPO with a letter signifying that the person is a Canadian citizen. Such confirmations will only be made by the Court after consultation with Citizenship Registration HQ, and the letter must indicate such action. On receipt of confirmation, the inquiry is to be terminated.

11.50 ADJOURNMENT FOR CLAIM TO REFUGEE STATUS

1) It is at this point that the inquiry will be adjourned if the person has, during the inquiry, claimed that he is a Convention refugee. The adjudicator will adjourn the inquiry and it will be the responsibility of the CPO to refer the case to a SIO for examination under oath pursuant to A45(1). In cases where the person is held in detention, the examination must, of course, be held as soon as practicable. SIOs may refer to guidelines outlined in IE 8 regarding this examination (particularly IE 8.10).

2) Following are the three possible decisions which could result from a claim to refugee status.

a) The person is found to be a Convention refugee. In such a case, the SIO shall, pursuant to A47(1), advise the CPO and the adjudicator accordingly so that the inquiry may be resumed.

b) The person is found not to be a Convention refugee. Before causing the inquiry to be resumed, the SIO must, by letter, advise the person concerned of the Minister's determination and of his right to apply to the IAB for a redetermination of his claim. The appropriate application forms for this purpose should be included with the letter and the person should be advised that he is required to submit his application to the IAB within fifteen days after receipt of the letter, and that he may, if he wishes, submit it through an immigration officer.

c) A.46(1) requires the SIO to cause the inquiry to be resumed, "as soon as reasonably practicable". However, A46(2)(a) creates a condition precedent to the resumption in that R.40(1) provides for a 15 day period to make an application to the Board. Therefore, SIOs should not make arrangements for the resumption of the inquiry until this 15 day period has lapsed.

d) The person is found not to be a Convention refugee but humanitarian grounds warrant special consideration. There are instances where, although a person does not meet the definition of a Convention refugee, there are humanitarian or compassionate reasons why that person should not be removed from Canada. In such instances, upon the advice of the Special Review Committee at NHQ, the SIO shall advise the person in writing that, although he is not a Convention refugee, it has been decided that he should be permitted to remain in Canada. The SIO should make arrangements to issue a Minister's Permit to the person and his dependants and then make arrangements for the resumption of the inquiry.

11.51 RESUMPTION OF INQUIRY

1) a) The person is found to be a Convention refugee. In accordance with A47(3), when an adjudicator determines that the person concerned is a Convention refugee as described in A4(2), he will allow that person to remain in Canada and terminate the inquiry.

b) If the person is found not to be a Convention refugee as described in A4(2), he is subject to removal and the inquiry shall continue.

2) The person is found not to be a Convention refugee. If the person is found not to be a Convention refugee and has not sought a redetermination by the IAB, or that body has concurred with the Minister's decision that he is not a Convention refugee, the adjudicator shall continue the inquiry regardless of any application that may be made pursuant to section 28 of the Federal Court Act to have the court set aside the decision of the Appeal Board.

3) The person is found not to be a Convention refugee but humanitarian grounds warrant special consideration. In such cases, when the inquiry has resumed, the case presenting officer should explain to the adjudicator the Minister's decision and then state that the request for removal is withdrawn. He could also advise the adjudicator that a Minister's Permit had been issued and request that the inquiry be terminated.

11.52 SUBMISSIONS - DETENTION OR RELEASE - DEPORTATION OR DEPARTURE

1) It is most likely, at this stage of the inquiry, that the adjudicator will invite submissions from both parties regarding the above.

2) In the case of a person reported under A27(2)(a) (coupled with A19(1)(a) or (b) or A19(2)(a), (b) or (d)), (b), (d), (e), (f), (g), (j), (k) or (l), the adjudicator has discretion regarding the issuance of a deportation order or departure notice. However, before issuing a departure notice, the adjudicator must be satisfied that:

   a) having regard to all the circumstances of the case, a deportation order ought not to be made against the person; and

   b) the person will leave Canada as required.

3) In order to justify detention pending removal, it must be established that the person:

   a) represents a threat to society; or

   b) is not likely to appear voluntarily for removal.

4) With respect to (2)(a) above, the case presenting officer may wish to consider the following in preparing his submission:

   a) Has the person's actions been severe enough to warrant deportation?

   b) Has he shown a flagrant disrespect for Canadian law?

   c) Has he demonstrated the intent to violate Canada's immigration laws or does the case involve inadvertent non-compliance with the Act or Regulations?

   d) Has the person shown himself to be of good character?

   e) Has he expressed any interest in returning to Canada? If so, would he have reasonable chances of qualifying for selection abroad?

   f) Does he have any ties with Canada which may be the basis for subsequent visits?

5) With respect to 3)a) above, the CPO may wish to consider the following in preparing his submission:

a) A criminal record;

b) Mental illness;

c) Association with known or convicted criminals;

d) Infectious or contagious diseases;

e) Security or criminal intelligence reports;

f) Physical violence demonstrated.

6) With respect to 2)b) and 3)b) the CPO may refer to the following in preparing his submission:

a) Past conduct in Canada;

b) Using an alias to avoid detection or to circumvent the Act and Regulations;

c) Frequent change of address in Canada;

d) Eluded examination or failed to report as requested;

e) Failed to comply with bond requirements;

f) Attempted to escape or hide;

g) Behaviour during inquiry.

7) CPOs may be requested to present submissions regarding detention not only at the termination of an inquiry but at any time that an inquiry may be adjourned and also at release hearings. The above guidelines are applicable in all situations.

11.53 EVIDENCE REGARDING INCLUSION OF FAMILY MEMBERS

1) At this stage of the inquiry, the adjudicator may ask the CPO to proceed with his case regarding inclusion of family members. The procedure that will follow will be that of an inquiry within an inquiry. The CPO may call the family members to testify with respect to his citizenship, residence, status in Canada and means of support. In order for a family member to be included in a deportation order or departure notice, the following must be established:

a) He is a member of a family as defined in the Act;

b) He is not a Canadian citizen;

c) He is not a permanent resident 18 or more years of age;

d) He is dependent upon the person who is the subject of the inquiry;

e) He has been given adequate opportunity to establish that he should not be so included.

2) In cases where the spouse or family members are in a location where it is not feasible for them to attend the actual hearing, the CPO may request that the adjudicator issue a commission to another adjudicator to hear evidence in Canada. The CPO may then transfer a copy of his file to a SIO in the area where the family members are residing with the request that he take the necessary steps to arrange for the hearing.

11.54 POST-INQUIRY PROCEDURES

1) Preparation and Distribution of Record

Normally, the adjudicator will be responsible for the preparation and distribution of the Record in cases where the person has entered an appeal. However, in some cases, the adjudicator may request the CPO to perform this function. In such cases, the CPO may refer to IE 12 for guidelines and procedures in this regard.

2) Appeal by Minister

a) Under A73, the Minister may appeal to the IAB on any ground involving a question of law or fact or mixed law and fact from a decision by an adjudicator that a person who was the subject of an inquiry is a person who may be granted admission or is a person against whom a removal order should not be made.

b) The decision to appeal or not appeal an adjudicator's decision to the IAB is made by the Minister, or those officers at NHQ delegated to exercise his authority pursuant to A73.

c) Where the Minister has a right to appeal, at the consideration stage, the following administrative procedures will apply:

i) the CPO need not submit any material to NHQ in cases involving only A19(1)h) and/or A19(3);

ii) where the grounds for the inquiry were based on A19(1)d), e), f) or g), A27(1)c) or A27(2)c), the CPO sends the full record of the inquiry, including exhibits and attachments "double-enveloped" to the Chief, Appeals and Litigation Division, NHQ, with the inner envelope also addressed to him but identified as "Private".

iii) in all other cases, the CPO will have the inquiry transcribed from the point where he began his submission to the conclusion of the inquiry. The transcript, copies of all the exhibits and attachments are then forwarded with a face sheet or brief covering memorandum, "double-enveloped" to the Chief, Appeals & Litigation Division, NHQ, with the inner envelope also addressed to him but identified as "Private". The face sheet or covering memorandum should include:

A) the dates the inquiry opened and concluded;

B) names and functions of those attending;

C) NHQ file number (if known);

D) address of person concerned, where service can be made personally and/or by registered mail;

E) any other pertinent comments.

N.B. This material must reach NHQ within 10 days of the adjudicator's decision.

All transcripts must be obtained through requests to the Adjudication Branch.

iv) Any request from NHQ for the balance of the record of the inquiry will be made by telephone or telex and must be given utmost priority.

d) The statutory procedures for appeals by the Minister are outlined in IE 12.37.

3) Prosecutions

It is departmental policy to refer cases involving serious violations of the Immigration Act to the RCMP for further investigation and prosecution. It is the responsibility of the officer in charge to decide whether a case should be so referred. Case presenting officers should refer to guidelines in IC 3.10 in deciding whether to bring the case to the attention of officers in charge for possible prosecution.

4) Liabilities of Transportation Companies

Where an individual is ordered removed from Canada, the transportation company which brought him to Canada is responsible for his conveyance and, in some cases, costs. (For guidelines in this regard, officers should refer to IE 1). Subsequent to the inquiry, the following information should be obtained: date and place of departure, itinerary, name of carrier(s), stop-overs en route, cost, form of payment, ticket number, name of issuing agent, date and place of arrival.

11.56 VENUE OF INQUIRY AND REQUEST FOR CHANGE OF VENUE

1. PARAMETERS

The venue of an inquiry should be decided with the following objectives in mind:

- to ensure that a full and proper inquiry is held;
- to ensure quality of service.

2. VENUE OF THE INQUIRY

Whether the case involves a report under the terms of section 20 or 27, the inquiry is held in the location designated for this purpose by the CIC responsible for inquiries in the area, in agreement with the local Adjudication Branch. The location where the report has been written or the location where the detention takes place determines the venue of the inquiry. However, circumstances may arise where it is impractical to follow this procedure and another venue for the inquiry should be designated.

a) **PORT OF ENTRY CASES**

When a person arriving at a port of entry is referred for an inquiry, the Senior Immigration Officer (SIO) determines where the inquiry is to be held.

i) If the subject of the inquiry declared during the examination, that his final destination is one that is not under the responsibility of the location where the inquiries for this port of entry are usually held, the SIO should then consider setting the venue for the inquiry at the location where the inquiry would have been held if the report had been prepared at the final destination. In doing so the SIO should use the same standards as apply to a change of venue.

ii) As in all cases, the SIO must determine whether the person should be detained because he or she presents a danger to the public or <u>because he or she may not appear for the inquiry [A103], or whether the person should be released on the appropriate terms and conditions</u>. A request for a change of venue should be considered in light of an SIO decision regarding the detention. In cases that are not direct backs whenever an officer is not satisfied that, having set a time and a location for an inquiry, the person concerned will present himself for this inquiry, this person should be detained. Where it is not appropriate to detain a person the officer at the border will issue an Acknowledgement of terms and conditions pending the inquiry. He should also consider if a bond should be taken to ensure that the person will respect the conditions imposed.

iii) If the SIO decides to designate a location other than the one usually used as a venue for the inquiry, he should communicate with the CIC of destination to seek their concurrence and determine with them the appropriate date, time and place for the inquiry. Where such communication is not possible the SIO should impose as a condition of release that the person concerned present himself at the CIC of destination on a specific day to obtain the date and time for the inquiry. The SIO then should send by fax or other means, the information to the CIC of destination.

iv) The nature of direct back cases does not permit a change of venue. Where a person cannot be returned who has been directed back the usual change of venue guidelines shall apply.

v) The nature of detained cases does not permit a change of venue.

b) **INLAND CASES**

The venue of the inquiry in inland cases is generally determined by the location of the arrest or the location of the infraction. As in all cases of this type the detention is considered under section A103 of the Act. It goes without saying that detained cases will not be permitted a change of venue. Reports under subsection 27(1) and subsection 27(2) by definition would not normally require such change although some particular circumstances may warrant a decision to change the venue of the inquiry.

3. **CHANGE OF VENUE**

A request for a change of venue may be submitted to a CPO supervisor by either the person concerned or his counsel. Whenever possible this request should be done in writing and must state the reasons in support of the request. Each case should be considered on its own merits and **the use of good judgement should prevail.**

a) A person may request a change of venue for his or her inquiry after he/she has been given a notice to appear for the inquiry but before the inquiry has started. This request should be made to the CPO Supervisor in the office where the person is (original or destination). The supervisor will evaluate the situation, and, unless the case has unusual factors that may justify not changing the venue of the inquiry [see section 5. a) following], he will communicate with the other CIC involved to evaluate the situation and make a joint decision on the request. Where the two CPO supervisors agree, they will then make the necessary arrangements to transfer the file. In cases where an agreement cannot be reached the process refered to in section 6 of the present guidelines should be initiated.

b) In accordance with section 35(1) and (2) of the Regulations, an adjudicator may adjourn an inquiry at any time for the purpose of ensuring a full and proper inquiry. This inquiry may be resumed at such time and place as he directs. If a request for a change of venue is made during the inquiry, the adjudicator will hear the statements from both parties before making a decision. Therefore, the examining officer must ensure, that if the request was made and denied prior to the inquiry, that the CPO is aware before the inquiry of the reasons

for the refusal; notably objections made by the CIC concerned. The CPO's response to this request to the adjudicator may also include decisions already made on the case or reasons described in paragraph 5.

RECONSIDERATION OF A REQUEST OF CHANGE OF VENUE

If the person who is refused a different venue or a change of venue is not detained and decides, notwithstanding the negative decision in respect to a change in venue, to go to his or her place of destination, the case should be re-evaluated. In doing so the CPO supervisor should take into consideration the distance between the two locations and the willingness of the person to present himself at the CIC of origin for his inquiry. Should a person in this situation become the subject of a report under section 27 the inquiry would then take place in the location desired by the person concerned, thereby making a forced return to the original venue impossible. Supervisors should examine closely the circumstances of each case in order to ensure that the integrity of the Immigration Program is not compromised by according these "client only" change of venues.

5. **REFUSAL TO CHANGE THE VENUE OF THE INQUIRY**

a) The following factors justify <u>not changing</u> the venue of inquiry:

i) The person concerned or counsel is trying to use this means to unduly delay the inquiry or is trying to abuse our inquiry system. Consequently, this point must be carefully evaluated. What must be taken into consideration are the number of changes of venue of inquiry already requested by the person concerned, the reasons for these changes and the reasons for the present request. The fact that the person has no one (family or friend) at the point of destination and that he or she does not seem to require the support of the ethnic community are also factors that may assist in evaluating the validity of the request.

ii) The cost of holding an inquiry at a new venue (witnesses, evidence, etc.) is greater than the cost of the current venue. However, expenses would also be incurred in forcing the person concerned to appear at the initial CIC if the person refused to do so. (In this case, the possibility of having the officer testify by means of a conference call instead of having to appear at the inquiry are to be considered.)

iii) Cases involving serious violations of the Act would not be permitted a change of venue. (19(1)(a), criminality, etc.)

b) Bearing in mind the parameters mentioned in paragraph 1., the impact of a request of a change of venue on the resources of the CIC's concerned is not a sufficient reason for refusal.

6. PROCEDURES WHERE A NEW VENUE FOR THE INQUIRY IS REFUSED

a) The reasons for the refusal of a change of venue must be placed on the file by the CPO supervisor at the original CIC in order to have this information available to the CPO who, when the inquiry is held, may have to make a statement on this subject. In this statement, the CPO will indicate why the change of venue for the inquiry was refused and why the inquiry had to proceed at the original location.

b) When a request for a new venue or for a change of venue of an inquiry is refused, a report describing the nature of the request, the reasons given by the client in support of his request and the reasons for the refusal must be sent, as soon as possible, to the respective regional offices to be reviewed. In case of a disagreement between the regions on the evaluation of a case, a report will be faxed to the Chief, Inquiries Section, at NHQ, containing the name of the person concerned, the reasons for the recommendations of each region as well as a copy of the report sent to each regional office concerning this refusal. In light of the facts that are presented and any other information obtained from the regions, the Director General, Enforcement Branch on the recommendation of the Chief, Inquiries Section, will decide in the final instance whether to permit or refuse a request.

7. REMOVAL COST

When a change of venue for inquiry has been accorded, the removal costs mentioned in section 42 of the Regulations will still be the responsibility of the carrier; these costs are not to be borne by the Commission. (The case remains a port- of-entry case.) Higher removal costs because of a change of venue of inquiry are not, in themselves, a reason for refusing a request. In some cases, there will be additional costs for transporting the person to the initial port of entry from which the removal must be carried out.

8. PROCEDURES WHEN A REQUEST IS ACCEPTED

When the request is granted, the original CIC will send the CIC of destination the complete file on the person concerned, including the following documents:

- original of the report on which the inquiry is based;
- copy of the notice to hold an inquiry;
- copy of the summons to appear (sent or given to the person concerned, if necessary);
- copy of the release document;
- notes of the examining officer;
- statutory declaration of a witness (if necessary);
- the original direction for inquiry and right to counsel form;
- any other documents relevant to the holding of the inquiry.

9. NEW EVIDENCE REQUIRED DURING THE INQUIRY

When the request has been allowed and the testimony of the person concerned contradicts that given at the examination, the CPO must do everything possible to invalidate this testimony. To do this, he may:

a) where facilities allow, request permission to hold a conference call during the inquiry in order to enable the examining officer or the SIO to testify and to allow the person concerned to cross-examine the witness,

b) request an adjournment to gather and prepare all evidence to be presented.

10. REPORTS

The CICs and their respective regions may establish, if they so desire, an internal weekly or monthly report on requests for changes of venue for inquiries.

FOREIGN CONVICTIONS - FEDERAL COURT OF APPEAL DECISIONS

(see reference at 11.27)

A. Shane G. Brannson

1) The adjudicator ordered Mr. Brannson's removal as he was a person described in paragraph 27(2)(a) in that, if he were applying for entry to Canada, he would not have been granted entry by reason of his being a member of an inadmissible class of persons described in paragraph 19(2)(a). The Court set the deportation order aside and referred the matter back to an adjudicator for the resumption of the inquiry.

2) Mr. Brannson was reported for having been convicted in the United States of mail fraud. The adjudicator found that the offence of which he was convicted, as revealed by the terms of the judgement and probation commitment order, would have been an offence under section 339 of the Criminal Code had it been committed in Canada. The Court disagreed with her finding since the Canadian offence relates to mailing letters and circulars whereas the U.S. offence is broader and refers to mailing any matter or thing. In other words, one could not be convicted of the Canadian offence in question if the materials transmitted or delivered were neither letters or circulars. No evidence was introduced at the inquiry as to what Mr. Brannson had mailed although the subject did provide some information as to the circumstances of the offence.

3) The Court was of the view that the following should have been introduced in evidence:

   a) evidence of conviction (this may take the form of a certificate of conviction, a police report or even a report of a telehone conversation with, e.g. the police or a court reported);

   b) the legal description of the foreign offence, that is, the next of the statutory provision under which the person was convicted; and

   c) evidence, by means of the charge or indictment or similar document, of the particulars of the offence. In some cases, the cerficate of conviction may contain sufficient information for the certificate to be used instead of the indictment.

4) The Court foresaw the documents being used in the following fashion:

   a) the certificate of conviction or like document would be examines to determine the offence for which the person was convicted. A certificate of conviction is particularly important where the person concerned was charged with one offence and convicted of another. This will usually occur where a person is charged with a serious offence but, as a result

of plea bargaining, is convicted of a lesser offence. The offence that must be looked at is the one of which the person concerned was actually convicted. In this case, one would determine from the certificate of conviction that Mr. Brannson was convicted of an offence under 18 U.S.C. 1341.

b) One would study the provisions describing the foreign offence to determine its essential elements. Merely looking at the name of the offence is not sufficient.

c) i) Having determined the elements of the foreign offence, the relevant provisions in our legislation should be examined to see whether there is an equivalent offence. The essential elements of each offence must be compared to determine that they correspond. Although the elements of the foreign and Canadian offences need not be strictly identical, the elements of the Canadian offence have to be such as to include within them the elements of the foreign offence. If, for example, a foreign offence were narrower than a Canadian offence, the wider Canadian offence would, nonetheless, be equivalent to the foreign offence.

ii) The Court realized that there will be differences in the wording of statutory provisions in different countries and, in seeking to determine the Canadian equivalent, one must bear in mind that the language of the two provisions need not be the same.

iii) Since the determination as to what constitutes the elements of an offence may be difficult, the legal adviser prepared the attached examples of the process (ATT. I) to be followed when identifying and comparing elements of offences.

d) If the foreign offence is broader than the Canadian offence, the indictment or a similar document must be examined to determine whether the particulars of the offence fall within the Canadian offence. If the particulars narrow the offence committed in such a manner as to bring it within the legal definition of the Canadian offence in question, then there is an equivalence. If the circumstances are such that the foreign offence committed falls outside the legal description of the Canadian offence one is looking at, the two section should not be equivalent. One should then look elsewhere to see if there is an equivalent.

e) In the Brannson case, the sequence followed should have been:

i) determine that the foreign offence included mailing any matter whereas the Canadian one referred to the mailing of letters and circular only;

ii) see if what was mailed fell within the Canadian offence;

iii) if the material mailed was a letter then there would be an equivalency;

f) The Court mentioned two possible exceptions to the requirement of producing evidence of relevant foreign law, conviction and charge:

i) where the conviction is with respect to an offence that is malum in se, that is, an offence against moral law which is of such a character as to be an offence in all countries, e.g. murder or theft. In such cases, one would presume the law in the foreign country to be the same as in Canada. However, one should rely on this exception only in the clearest of cases. For example, manslaugter appears to be a malum in se offence, but in some American jurisdictions manslaugter has little resemblance to manslaughter as we understand it in Canada. A well-informed counsel could therefore catch a CPO off guard.

ii) In non-common law countries, the methods whereby prosecutions are instituted may be substantially different from those generally prevailing in common law countries. Therefore, where the foreign conviction was in a non-common law jurisdiction, there might not be any document equivalent to an indictment. If such documents are not available, evidence to that effect should be introduced. If the case is then appealed to the Federal Court, the Court will understand why the Commission relied on the testimony of the person concerned. It is important to establish the fact of unavailability since the testimony of the person concerned could be somewhat less reliable than the documents in issue. The same would apply to the unavailability of police records and the like for whatever reason.

B. D.E. Anderson

5) Mr. Anderson was reported on the grounds that he was a person described in paragraph 27(2)(a) in that if he were applying for entry, he would not be granted entry by reason of his being a member of an inadmissible class described in paragraph 19(1)(c). The adjudicator, drawing a Canadian equivalent different from that alleged in the direction, found the person to be described in 27(2)(a), 19(2)(a) and issued a departure notice. In other words, he found Mr. Anderson to be a member of an inadmissible class other than the inadmissible class specified in the section 27 report and based his departure notice on that finding.

6) It was the Court's view that there can be no switching between the criminality provisions of section 19 where the report alleges that the person is described in A27(2)(a). A removal under A27 can only be effected on the basis of a "ground" contained within the report required by that section. In addition, the Court found that the adjudicator was unable to determine the essential elements of the foreign offence on the basis of the information presented at the inquiry. It was, therefore, impossible for him to determine that the foreign offence would have been an offence punishable by way of indictment under the Criminal Code.

7) As a result of this decision, it is our legal adviser's opinion that:

a) reports should refer to as many possible Canadian equivalents as are reasonably necessary;

b) where there is any doubt as to the possible Canadian equivalents, one or more of which may be the object of a report for 19(1)(c) and 19(2)(a), both 19(1)(c) and 19(2)(a) should be mentioned with 27(2)(a) in the report.

+ C. Victor Dayan

8) Mr. Dayan was reported on the grounds that he was a person described in paragraph 27(2)(a) in that if he were applying for entry, he would not be granted entry by reason of his being a member of an inadmissible class described in paragraph 19(1)(c).

9) After a review of the facts of the case the adjudicator ordered the subject deported. The case was subsequently appealed to the Federal Court. Counsel for the appellant argued before the Court that the proper Canadian equivalent of the offence committed by his client had not been established at the inquiry. While the Court supported the adjudicator, it took the opportunity to outline measures which will help to equate foreign offences with Canadian ones.

10) The Court indicated that every effort should be made to obtain the text of the statutory provisions of the foreign law when attempting to establish the Canadian equivalent. This text should be introduced at the inquiry so that it will form part of the official record. The Court recognizes that not all nations codify their laws in a text of statutes similar to our own. The absence of a specific equivalent provision in the statute law of another country, when this is the case, should be reflected in the record of the inquiry.

Summary

11) These three Federal Court decisions will affect inland inquiries in particular. Border port of entry inquiries with respect to persons seeking entry from the United States should cause less difficulty in that there is greater flexibility in scheduling inquiries. Also, the burder of proof provisions may assist us in port of entry inquiries alleging criminality as a ground of inadmissibility.

12) It is essential that officers bear in mind that to be successful at an inquiry involving a foreign conviction:

a) they must obtain evidence of the conviction of the person concerned, the legal description of the foreign offence and particulars of the offence as usually evidenced by the charge or indictment in order to establish

the Canadian equivalent of the foreign offence. These should all be introduced as exhibits at the inquiry, whether or not the case presenting officer thinks they are necessary in the particular case. If questions then arise as to the proper equivalent, any doubt will be resolved more effectively.

b) depending on the facts of the case, it may be necessary for officers to be more general in writing a report considering:

   i) the greater difficulty in determining a Canadian equivalent offence than was formerly the case;

   ii) that no "switching" is permitted where an inquiry is based on 27(2)(a) for 19(1)(c) and/or 19(2)(a).

Foreign Provision

Paragraph 7208(1) 26 USC 1976 (Internal Revenue Code)

Any person who

(1) willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that is made under the penalties of perjury, and which he does not believe to be true and correct as to any material matter; or ..."

shall be guilty of a felony ...

Canadian Provision

Paragraph 239(1)(a) of the Income Tax Act

Every person who has

(a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation ...

is guilty of an offence and ...

ELEMENTS

Foreign Provision	Canadian Provision	Comments
- Any person who	Every person who	See below under last two elements.
- willfully	-	Note that the "making" in Canada relates to a false statement and not to making a return. Since however the making of the false statement must be in a return, the different terminology in effect means the same thing.
- makes and subscribes	made or participated etc.	Subscribes in the U.S. offence presumably relate to an oath or affirmation or declaration, as to which see below re: "perjury".

Foreign Provision	Canadian Provision	Comments
any return . . .	return . . .	While the return etc. must be filed etc. by or under the Canadian I.T.A., it is thought that in making the equivalent a court will make the necessary adjustments in this type of case.
1) which contains or is verified	-	The Canadian offence is wider in that it does not require the return, etc. be on oath, affirmation or declaration. (Refers to items 1, 2 and 3).
2) why a written declaration	-	
3) that is made under penalties of perjury	-	
4) and which he does not believe to be true and correct	-	The Canadian offence would appear to be narrower insofar as it requires an actual falsity, etc. and not merely belief that there is a falsity. Although it was not known that the information thought to be false was actually false, it was assumed it was in fact false, it appearing most unlikely a person who did not provide false information would be prosecuted. (Refers to items 4 and 5).
5) as to any material matter	-	

Foreign Provision

Paragraph 9(1)(b) of the Prevention of Bribery Ordinance (H.K.)

> Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his -
>
> (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,
>
> shall be guilty of an offence.

Canadian Provision

Subsection 383(1)(a)(ii) of the Criminal Code.

> Every one commits an offence who
>
> (a) corruptly
>
> . . .
>
> (ii) being an agent, demands, accepts or offers or agrees to accept from any person,
>
> a reward, advantage or benefit of any kind as consideration for doing or forbearing to do, or for having done or forborne to do, ary act relating to the affairs or business of his principal or for showing or forbearing to show favour or disfavour to any person with relation to the affairs or business of his principal; or ...

ELEMENTS

Foreign Provision	Canadian Provision	Comments
- Any agent who	agent	NIL
- without lawful authority or reasonable excuse,	corruptly	
- solicits or accepts	demands, accepts, offers to or agrees to accept.	
- (implied)	from any person	

Foreign Provision	Canadian Provision	Comments
- any advantage	a reward, advantage or benefit of any kind	in fact money
- as an inducement to or reward for or otherwise on account of his	as consideration	
- showing...favour...to any person	showing...favour to any person	
- in relation to his principal's affairs or business	with relation to the affairs or business of his principal.	

FACTS

Automobile accident - property damage - Immigrant stated to Immigration the other car had not stopped, and she had therefore also not stopped. Evidence at criminal trial was however to the effect that the other driver had stopped.

Foreign Provision

135(1) South Africa Road Traffic Ordinance.

The driver of a vehicle on a public road at the time when such vehicle is involved in or contributes to any accident in which any other person is killed or injured or suffers damage in respect of any property or animal -

(a) shall immediately stop the vehicle;

...

(b) shall ascertain the nature and extent of any damage sustained

Canadian Provision

233(2) et (3) Criminal Code

(2) Every one who, having the care, charge or control of a vehicle that is involved in an accident with a person, vehicle or cattle in the charge of a person, with intent to escape civil or criminal liability fails to stop his vehicle, give his name and address and, where any person has been injured, offer assistance, is guilty of ...

(3) In proceedings under subsection (2), evidence that an accused failed to stop his vehicle, offer assistance where any person has been injured and give his name and address is, in the absence of any evidence to the contrary, proof of an intent to escape civil and criminal liability.

ELEMENTS

Foreign Provision	Canadian Provision	Comments
1) The driver of a vehicle	1) Every one who, having care, charge or control of vehicle that it involved in an accident	1) O.K. on facts
2) on a public road	-	-
3) at the time when such vehicle is involved in or contributes to, any accident	-	-
4) in which any other person...suffers damage in respect of any property...	4) . . . with a vehicle	4) Damage not necessarily an element in Canada. Another vehicle was in fact involved.

Foreign Provision	Canadian Provision	Comments
- shall immediately stop the vehicle	falls to stop his vehicle	Despite the use "and" failure to fulfil one of the three obligations in Canada is sufficient.
	- with intent to escape civil or criminal liability	This is not an element of the foreign offence. On the facts, however, as well as in law (given the presumption in Canadian law), the element would appear to have been met.

NOTE: The Criminal Code section does not refer to ascertaining damage, and is therefore not an equivalent to a conviction under paragraph 135(1)(d) of the Road Traffic Ordinance (S.A.).

FEDERAL COURT OF APPEAL DECISION - ALAN KWOK LUN CHI

1. Mr. Chi was reported under A27(2)(e) on the grounds that he entered Canada as a visitor and remained therein after ceasing to be a visitor. The report was based on information that Mr. Chi had attended classes at College X contrary to the term and condition imposed upon entry that he attend College Y.

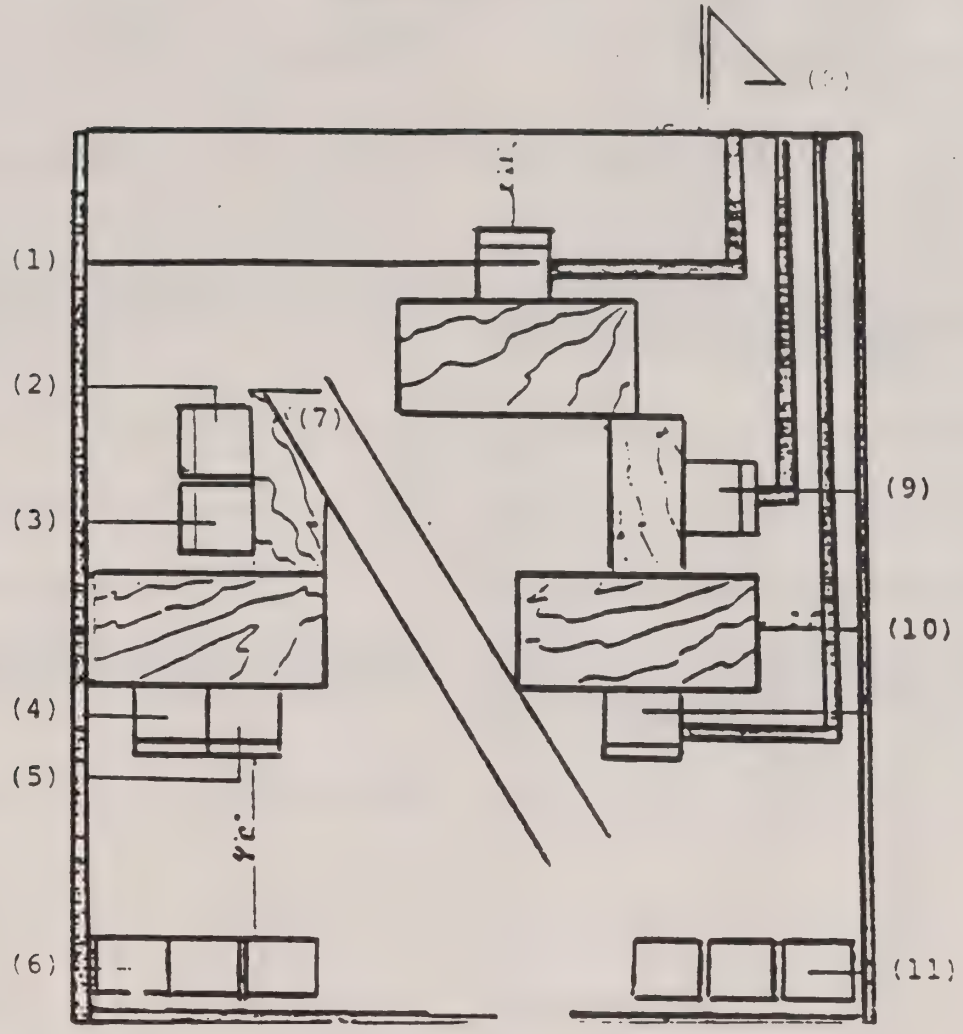
2. The adjudicator found that Mr. Chi had ceased, under paragraph 26(1)(b) of the Act, to be a visitor by reason of attending a college without authorization. The Report appears to have contained an error when referring to the applicable paragraph of A26(1) and 26(1)(c) was cited in lieu of A26(1)(a) and/or (b).

3. The Court concluded that the adjudicator's decision based on paragraph 26(1)(b) was not valid as an allegation to that effect was not part of the subject matter of the inquiry. In addition to the specific reference made in the CHI Report to A26(1), the report was based on information that Mr. Chi attended a college contrary to the term and condition of entry that he attend a specific college. The adjudicator found that Mr. Chi had ceased to be a visitor by reason of attending a college without authorization.

4. In view of the above, officers are reminded of the importance of citing all possible alternatives in the preparation of reports in the event of real doubt. Furthermore, in A27(2)(e) reports, a direct reference to A26(1) may not be considered necessary providing the facts which led to the A27(2)(e) allegation have been properly cited and sufficient information has been provided in the report to support the allegation. Where officers wish, however, to include a direct reference to A26(1) in their report, care should simply be taken to ensure citing the appropriate paragraph(s).

ADJUDICATION HEARING ROOM

(Reference at IE 11.33 2)b))



1. Adjudicator
2. Witness
3. Interpreter
4. Person Concerned
5. Counsel
6. Character Witness or Public
7. Barrier of Furniture
8. Egress
9. Court Reporter
10. Case Presenting Officer
11. Departmental Witness or Public

Employment and Immigration Canada | Emploi et Immigration Canada

IE 11 APP. "D"

CANADA IMMIGRATION

DIRECTION FOR INQUIRY UNDER SUBSECTION 27(3) OF THE IMMIGRATION ACT

File _____

TO: Senior Immigration Officer _____

_____

I have reviewed the report dated _____ submitted pursuant to subsection 27( ) of the Immigration Act concerning

_____

Surname

_____

Given names

and I consider that an Inquiry is warranted.

Pursuant to subsection 27 (3) of the Immigration Act, I hereby direct that an Inquiry be held to determine if the above mentioned is a person described in paragraph(s)

_____ of the said Act.

Dated at _____

in the Province of _____

This _____ day of _____ 19____.

_____

Deputy Minister of Employment and Immigration

IMMIGRATION CANADA

DIRECTIVE PRÉVOYANT LA TENUE D'UNE ENQUÊTE AUX TERMES DU PARAGRAPHE 27(3) DE LA LOI SUR L'IMMIGRATION

N° de référence _____

POUR: Agent principal _____

_____

J'ai étudié le rapport fait le _____ *qui a été présenté conformément au paragraphe 27 ( ) de la loi sur l'immigration concernant*

_____

Nom

_____

Prénoms

et j'estime que la tenue d'une enquête est justifiée.

Conformément au paragraphe 27(3) de la Loi sur l'immigration, j'ordonne, par les présentes, qu'une enquête soit tenue pour déterminer si la personne précitée est visée à l'alinéa

_____ *de ladite Loi.*

Fait à _____

dans la province de _____

ce _____ *jour de* _____ *19*____.

_____

Le Sous-ministre d'Emploi et Immigration Canada

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION

CE FORMULAIRE A ÉTÉ ÉTABLI PAR LE MINISTRE D'EMPLOI ET IMMIGRATION

IMM 1246 EP-1 (10-88) B

07-89

Canada

Employment and Immigration Canada | Emploi et Immigration Canada

IE 11 APP. "E"

NOTICE OF INQUIRY UNDER THE IMMIGRATION ACT

AVIS D'ENQUÊTE AUX TERMES DE LA LOI SUR L'IMMIGRATION

File _____

N° de référence _____

TO: An Adjudicator

POUR: Arbitre

In Accordance with the provisions of the Immigration Act.

Conformément aux dispositions de la Loi sur l'immigration

I hereby cause an inquiry to be held pursuant to

J'ordonne qu'une enquête soit tenue en application de

section _____

l'article _____

concerning _____
Given Name(s) Surname

concernant _____
Prénom(s) *Nom*

who is alleged to be described in paragraph(s)

qui serait visé à (aux) l'alinéa(s)

_____

_____

You are requested to preside at an inquiry which is scheduled to be held on

Vous êtes prié(e) de présider l'enquête qui doit se tenir le

_____ 19___ at _____
Date Time

_____ *19___ à* _____
Date *Heure*

at _____
Place

à _____
Endroit

Dated at _____

Fait à _____

in the Province of _____

dans le province de _____

this _____ day of _____ 19___ .

ce _____ *jour de* _____ *19___* .

_____
Senior Immigration Officer

_____
Agent principal

IMM 1243 EP - I (10-88) B

07–89

Canada

Employment and Immigration Canada / Emploi et Immigration Canada

IE 11 APP. "F"

SUMMONS TO A PERSON CONCERNED / ***ASSIGNATION À LA PERSONNE CONCERNÉE***

(THE IMMIGRATION ACT, as amended) / *(LOI SUR L'IMMIGRATION, telle que modifiée)*

File No. – *N° de référence*

Name of Person Concerned – *Nom de la personne concernée*

To
Pour

Address – *Adresse*

Whereas

☐ an inquiry to determine your admissibility or your right to remain in Canada in accordance with _____ of the Immigration Act, as amended is to be held at

☐ a hearing pursuant to subsection 46(3) of the Immigration Act as enacted by S.C. 1988, c. 35, to determine whether your claim to be a Convention Refugee shall be referred to the Refugee Division is to be held at

Attendu

☐ *qu'une enquête concernant votre admissibilité ou votre droit de demeurer au Canada sera, conformément _____ de la Loi sur l'immigration telle que modifiée, tenue à*

☐ *qu'une audience prévue au paragraphe 46(3) de la Loi sur l'Immigration tel qu'édicté par L.C. 1988, ch. 35, afin de déterminer si votre revendication de statut de réfugié au sens de la Convention doit être déférée à la section du statut sera tenue à*

Location – *Endroit*

On the / *Ce* Day of / *Jour de* 19 At / *À* O'clock in the / *H* Noon

This is therefore to command you to appear at the aforesaid time and place to be dealt with according to the provisions of the Act, specifically

Les présentes ont donc pour objet de vous enjoindre de comparaître à ladite heure et audit endroit pour que votre cas soit examiné conformément aux dispositions de la Loi, précisément l'article

A copy of the report submitted under _____ of the act is attached.

Vous trouverez ci-joint un double du rapport présenté au termes de l'article _____ de la Loi.

You are warned that failure, without lawful excuse, to attend before an Adjudicator in accordance with this notice is an offence under the Act.

Sachez que si vous négligez de comparaître devant un arbitre, sans excuse légitime, conformément à la présente citation, vous enfreindrez la Loi.

Dated at / *Fait À* In the Province of / *Dans la Province de* This / *Ce* Day of / *Jour de* 19

Signature of Adjudicator – *Signature de l'arbitre*

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION

FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM 1233 EP-P (01-89) B

Canada

07-89

Employment and Immigration Canada / Emploi et Immigration Canada

NOTICE TO APPEAR FOR AN INQUIRY/HEARING
(THE IMMIGRATION ACT, as amended)

CITATION À COMPARAÎTRE À UNE ENQUÊTE/AUDIENCE
(LOI SUR L'IMMIGRATION, telle que modifiée)

File No – *N° de référence*

To
Pour

Address – *Adresse*

This is to advise you

☐ that an inquiry is to be held in accordance with _____ of the Immigration Act as amended, to determine whether you shall be admitted or allowed to remain in Canada. The basis of the inquiry is a report submitted under _____ of the Act. A copy of the document is attached.

☐ that a hearing is to be held in accordance with subsection 46(3) of the Immigration Act, as enacted by S.C. 1988, c. 35 to determine whether your claim to be a Convention refugee shall be referred to the Refugee Division

Les présentes sont pour vous aviser

☐ *qu'une enquête sera tenue conformément au _____ de la Loi sur l'immigration telle que modifiée, pour déterminer si vous devez être admis(e) au Canada ou autorisé(e) à y demeurer. Cette enquête se fonde sur un rapport présenté conformément au _____ de la Loi. Vous trouverez ci-jointe une copie de ce rapport*

☐ *qu'une audience sera tenue conformément au paragraphe 46(3) de la Loi sur l'immigration, tel qu'édicté par L.C. 1988, ch. 35, afin de déterminer si votre revendication de statut de réfugié au sens de la Convention doit être déférée à la section du statut.*

This inquiry/hearing will be held at

Cette enquête/audience aura lieu à

Location – *Endroit*

on the *ce* | day of *jour de* | 19 | at *à* | o'clock in the *h* | noon

The Act provides you with the right to obtain the services of a barrister or solicitor or other counsel and to be represented by such a counsel. Attached is a notice (IMM 689) which outlines your right to counsel.

Aux termes de la Loi, vous aurez le droit aux services d'un avocat, d'un procureur ou de tout autre conseil pour vous représenter. A cet égard, vous trouverez ci-joint l'avis pertinent (IMM 689).

Dated at *Fait à* | in the province of *dans la province de* | this *ce* | day of *jour de* | 19

Senior Immigration Officer – *Agent d'immigration supérieur*

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION

FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM 1[illegible] (07-89) E

Canada

07-89

Employment and Immigration Canada | Emploi et Immigration Canada

CANADA IMMIGRATION

NOTICE OF AN INQUIRY TO FAMILY MEMBERS

File: _____

TO

Address:

This is to advise you that an inquiry is to be held in accordance with _____ of the Immigration Act, as amended concerning _____. _____

_____

The purpose of the inquiry is to determine whether

_____

shall be admitted to or allowed to remain in Canada. The basis for the inquiry is a report/direction under subsection _____ of the Act. A copy of the document is attached.

If a deportation order or a conditional deportation order or departure notice or a conditional departure notice is issued to _____ you may be included in the order or notice and be required to leave Canada. You are requested to attend the inquiry on

_____ at _____
Date | Time

at _____
Place

The Act provides you with the right to obtain the services of a barrister or solicitor or other counsel and to be represented by such counsel at the inquiry. Attached is a Notice (IMM. 689) which outlines your right to counsel.

You have the right to participate fully at the inquiry by examining evidence, cross-examining witnesses and producing evidence.

Dated at _____

in the Province of _____

this _____ day of _____ 19 ____

_____
Authorized Officer and Title

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOMENT AND IMMIGRATION

IMM 1248 EP-P (01-89) B

07-89

IMMIGRATION CANADA

AVIS D'ENQUÊTE SIGNIFIÉ AUX MEMBRES DE LA FAMILLE

N° de référence _____

POUR

Adresse:

Les présentes ont pour objet de vous aviser qu'une enquête doit être tenue conformément au _____ *de la Loi sur l'immigration, telle que modifiée, concernant* _____

_____

L'enquête vise à établir si

_____

doit être admis(e) ou autorisé(e) à demeurer au Canada. L'enquête se fonde sur un rapport/une directive dont fait mention le paragraphe _____ *de la Loi. Vous trouverez ci-joint un double du document.*

Si une mesure d'expulsion ou une ordonnance d'expulsion conditionnelle ou un avis d'interdiction de séjour ou un avis d'interdiction de séjour conditionnelle est délivré à _____ *vous pouvez être inclus(e) dans la mesure, l'ordonnance ou l'avis et être prié(e) de quitter le Canada. Veuillez vous présenter à l'enquête qui se tiendra*

le _____ à _____
Date | Heure

à _____
Lieu

Aux termes de la Loi, vous pouvez, retenir les services d'un avocat, d'un procureur ou de tout autre conseil, pour vous représenter à l'enquête. Vous trouverez ci-joint un avis (IMM. 689) qui fait état de votre droit de vous faire représenter.

Vous avez le droit de participer pleinement à l'enquête, à savoir examiner les preuves, contre-interroger les témoins et produire des preuves.

Fait à _____

dans la province de _____

ce _____ *jour de* _____ 19 ____

_____
Agent autorisé et titre

CE FORMULAIRE A ÉTÉ ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

Immigration Canada | Immigration Canada

SUMMONS TO A WITNESS

(THE IMMIGRATION ACT, as amended)

ASSIGNATION À UN TÉMOIN

(LA LOI SUR L'IMMIGRATION, telle que modifiée)

File No. – *N° de référence*

Name of Witness – *Nom du témoin*

TO
POUR

Address – *Adresse*

Whereas in accordance with _____ of the Immigration Act, as amended,

Attendu que, conformément aux dispositions du _____ de la Loi sur l'immigration, telle que modifiée,

☐ an Inquiry

☐ a Hearing

is to be held concerning

☐ *une enquête*

☐ *une audience*

doit être tenue concernant

Name of person concerned – *Nom de l'intéressé(e)*

and it has been made to appear that you are likely to give material evidence.

et qu'il semble que vous serez en mesure de produire des témoignages pertinents

This is therefore to command you to attend at

Les présentes ont donc pour objet de vous enjoindre de comparaître à

Location – *Endroit*	On the / *ce*	day of / *jour de*	19	at / *à*	o'clock in the / *h*	noon

to give evidence concerning the said matter, and to bring with you any written matter in your possession or under your control that relates to the said matter and, more particularly, without restricting the generality of the foregoing, the following items:

pour témoigner au sujet de ladite question, et d'apporter tout document écrit en votre possession ou sous votre responsabilité qui a trait à ladite question et, plus particulièrement, sans restreindre la portée de ce qui précède les documents suivants:

You are warned that failure, without lawful excuse, to attend the said inquiry/hearing is an offence under the Act.

Sachez que si vous négligez d'être présent(e) à ladite enquête/audience, sans excuse légitime, vous enfreindrez la Loi.

Dated at / *Fait à*	in the province of / *dans la province de*	this / *ce*	day of / *jour de*	19

Signature of Adjudicator – *Signature de l'arbitre*

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM 1232 EP-P (01-89) B

Canada

Employment and Immigration Canada / Emploi et Immigration Canada

NOTIFICATION OF ADJOURNMENT OF IMMIGRATION INQUIRY TO VERIFY CLAIM TO CANADIAN CITIZENSHIP IE 11 APP. "J"

AVIS D'AJOURNEMENT DE L'ENQUÊTE DE L'IMMIGRATION POUR VÉRIFICATION DE LA REVENDICATION DE LA CITOYENNETÉ CANADIENNE

Name — *Nom*	File No. — *N° de référence*	Date D-J M Y-A

Place of Birth — *Lieu de naissance*	Date of Birth — *Date de naissance* D-J M Y-A	Complete CIC Address — *Adresse complète du CIC*

Current Address — *Adresse actuelle*

Location of Immigration Inquiry — *Lieu de l'enquête de l'immigration*	Date D-J M Y-A

1. The Immigration Inquiry described above has been adjourned as a result of your claim to Canadian Citizenship. Pursuant to subsection 43(2) of the Immigration Act, 1976, you are required to make your Application for a Certificate of Citizenship pursuant to subsection 11(1) of the Citizenship Act.

☐ to the nearest Court of Canadian Citizenship located at

(be sure to present this form at the Citizenship Court).

☐ to the Registrar of Canadian Citizenship, Citizenship Registration Branch, Department of Secretary of State, Ottawa, Ontario K1A 0M5 by registered mail. The appropriate application for a citizenship certificate is enclosed.

2. Following the action described above, you are then required to provide this office with

☐ a receipt issued by the Citizenship Court indicating that you have made an application for a citizenship certificate;

☐ a receipt issued by the Post Office indicating that an application has been sent to the Registrar in Ottawa by registered mail.

3. In the event that such documentary proof as described above is not provided to this office by _____ arrangements will be made for the resumption of your inquiry.

_____
(Signature of case presenting officer) (Date)

1. L'enquête précitée a été ajournée par suite de votre revendication de la citoyenneté canadienne. Aux termes du paragraphe 43(2) de la Loi sur l'immigration de 1976, vous devez présenter une demande de certificat de citoyenneté conformément au paragraphe 11(1) de la Loi sur la citoyenneté

☐ *à la cour de la citoyenneté canadienne la plus près de votre domicile à*

(n'oubliez pas de présenter ce formulaire à la cour de la citoyenneté);

☐ *au registraire de la citoyenneté canadienne, Direction générale de l'enregistrement de la citoyenneté canadienne, Secrétariat d'État, Ottawa, (Ontario), K1A 0M5 par courrier recommandé. Ci-joint le formulaire approprié de demande de certificat de citoyenneté.*

2. Une fois ces formalités accomplies, vous êtes tenu(e) de nous faire parvenir

☐ *un reçu délivré par la cour de la citoyenneté portant que vous avez présenté une demande de certificat de citoyenneté;*

☐ *un reçu délivré par le bureau de poste attestant que la demande a été envoyée par courrier recommandé au registraire à Ottawa.*

3. Si vous ne pouvez nous fournir cette preuve documentaire au plus tard le _____ des dispositions seront prises pour faire reprendre l'enquête.

_____
(Signature de l'agent chargé de présenter le cas) *(Date)*

(This form has been established by the Minister of Employment and Immigration)
(Formulaire établi par le Ministre de l'Emploi et de l'Immigration)